

**VOLUME 16, CHAPTER 2: “GENERAL INSTRUCTIONS FOR COLLECTION OF DEBT OWED TO THE DEPARTMENT OF DEFENSE (DOD)”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **June 2017** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
020103	Added a comprehensive list of authoritative sources instead of referring readers to Chapter 1, and added a reference to the Bureau of the Fiscal Service.	Addition
020201	Added a reference to Centralized Receivables Service as an option for pursuing debt collection.	Addition
020505.D-E	Clarified that debtors’ rights to request information and receive a written decision apply to both hearings (for civilians) and reviews (for military).	Revision
020902.E	Clarified that hearing petitions are for civilian debtors while requests for review are for military debtors.	Revision
021001	Added statement that debts pending waiver or remission may be disclosed to credit bureaus if the Secretary concerned deems it necessary.	Addition
021102.C.2.i-j	Added two scenarios when debts may be, but are not required to be, referred to cross-servicing.	Addition
021405.C.3	Added timely filing of a hearing petition to the list of scenarios where it may be appropriate to suspend collection of a debt.	Addition
Figure 2-2	Added statements that remaining debt may be collected at time of separation and debtor will be refunded any money if a debt is subsequently found to be not due to the United States.	Addition
Figure 2-2	Added statement that if finance office cannot collect debt due to voluntary allotments or deductions, the allotments will be stopped, and collection of the debt will continue.	Addition

Table of Contents

VOLUME 16, CHAPTER 2: “GENERAL INSTRUCTIONS FOR COLLECTION OF DEBT OWED TO THE DEPARTMENT OF DEFENSE (DOD)” ..... 1

0201 GENERAL ..... 5

    020101. Overview ..... 5

    020102. Purpose ..... 5

    \*020103. Authoritative Guidance ..... 5

0202 GENERAL GUIDANCE ..... 6

    \*020201. Prompt Collection of Debt ..... 6

    020202. Statute of Limitations for Collecting Debts ..... 6

    020203. Method of Payment ..... 7

    020204. Return of Property to Settle Indebtedness ..... 8

0203 RECOVERY TOOLS FOR DEBTS ..... 8

    020301. Common Debt Collection Methods Used by the DoD ..... 8

    020302. Other Collection and Recovery Tools ..... 8

0204 DUE PROCESS ..... 9

    020401. General ..... 9

    020402. Requirements for Routine Pay Adjustments ..... 10

    020403. Authority to Initiate Collection Before Due Process is Granted ..... 10

0205 DEBT NOTIFICATION LETTER ..... 11

    020501. General Requirements for Debt Notification Letter ..... 11

    020502. When to Issue a Debt Notification Letter ..... 11

    020503. Debt Notification Letters Issued by Disbursing Officers ..... 11

    020504. Debt Notification Letters Issued by a Contracting Officer or Other Designated Official ..... 11

    \*020505. Content of Debt Notification Letters ..... 11

    020506. Duplication of Debt Notification ..... 14

0206 RESPONDING TO DEBTOR INQUIRIES ..... 14

0207 VOLUNTARY REPAYMENT OF INDEBTEDNESS ..... 14

    020701. Lump-Sum Repayment ..... 14

    020702. Voluntary Repayment by Installment ..... 15

0208 CONSIDERING AND PROCESSING INSTALLMENT AGREEMENTS ..... 16

    020801. Proposed Installment Agreement Review Criteria ..... 16

## Table of Contents (Continued)

020802.	Installment Payment Agreement Terms and Processing.....	17
020803.	Installment Payment Delinquency .....	17
020804.	Review of Installment Agreements .....	17
0209	INVOLUNTARY COLLECTION OF DEBT BY SALARY AND ADMINISTRATIVE OFFSET.....	18
020901.	General .....	18
*020902.	Salary Offset Under 5 U.S.C. § 5514.....	18
020903.	Collection by Administrative Offset Under 31 U.S.C. § 3716 .....	21
020904.	Additional Statutory Authority for Offset.....	23
020905.	Cooperation with Other Government Agencies .....	24
0210	REPORTING DEBT TO CREDIT BUREAUS .....	25
*021001.	Authority to Report Debts .....	25
021002.	Notification to Debtor of Intent to Report to a Credit Bureau .....	26
021003.	Requirements for Reporting Debts to Credit Bureaus .....	26
021004.	Maintenance of Debt Records .....	27
0211	REFERRAL TO THE TREASURY .....	27
021101.	General .....	27
*021102.	Cross-Servicing .....	28
021103.	TOP .....	30
0212	REFERRAL TO PCA .....	31
021201.	Authority to Use PCA .....	31
021202.	Contracts for PCA Services .....	31
021203.	Funding PCA Contracts .....	32
0213	REFERRALS TO THE DOJ FOR LITIGATION .....	32
021301.	General .....	32
021302.	Minimum Amount for Referral .....	33
021303.	Notification to Debtor .....	33
021304.	Contact With Debtor After Referral.....	34
021305.	Documentation of Debt for the DOJ .....	34
021306.	Preservation of Evidence.....	34
021307.	Discontinuation of DCO Actions .....	34
0214	DEBT COMPROMISE, SUSPENSION, AND TERMINATION .....	35
021401.	General .....	35
021402.	Determining Debt Amount for Compromise, Suspension, and Termination.....	35

**Table of Contents (Continued)**

021403. Submission to the DOJ Using the CCLR..... 35

021404. Compromise..... 36

\*021405. Suspension of Collection Action..... 39

021406. Termination of Collection Action ..... 41

021407. Debts Involving Violation of Antitrust Laws or Fraud..... 43

0215 DEBTORS INVOLVED IN BANKRUPTCY PROCEEDINGS ..... 43

0216 BREAK-EVEN ANALYSIS ..... 44

021601. Extent of Collection Efforts for Domestic Debts..... 44

021602. Break-Even Analysis Format ..... 45

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances.. 46

\*Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances 53

Table 2-1. Break-Even Analysis..... 59

## CHAPTER 2

**GENERAL INSTRUCTIONS FOR COLLECTION OF DEBT OWED TO THE  
DEPARTMENT OF DEFENSE (DOD)**

## 0201 GENERAL

## 020101. Overview

The policy and requirements in this chapter apply to administrative actions associated with the collection of debts owed to and collected by the DoD. Additional guidance related to collecting debt from individuals, vendors/contractors, and foreign entities is included in Chapters 3, 5, and 6, respectively. The instructions in this chapter do not apply to the collection of child support or alimony or to commercial, non-DoD debts owed by civilian employees and Service members through garnishment or involuntary allotment. Refer to Volume 7A, Chapters 41 and 43; Volume 7B, Chapters 27 and 28; and Volume 8, Chapter 8 for guidance pertaining to garnishments, involuntary allotments, and tax levies. In addition, this chapter does not apply to antitrust, fraud, tax, or interagency collection issues.

## 020102. Purpose

The purpose of this chapter is to provide policy and requirements Debt Collection Offices (DCOs) must follow in the collection of public debts owed to the DoD. These debts include amounts outstanding from civilian employees, Service members, retired personnel, and other individuals.

## \*020103. Authoritative Guidance

Pursuant to U.S. Department of Treasury (Treasury) requirements, DoD is required to aggressively collect debts in accordance with the following statutes and regulations:

- A. Debt Collection Improvement Act of 1996 (*Public Law 104-134*, Chapter 10, section 31001);
- B. Debt Collection Act of 1982 (*Public Law 97-365*);
- C. Federal Claims Collection Act of 1966 (codified at Title 31, United States Code (U.S.C.), section 3701 et seq; 5 U.S.C. § 5514; and 37 U.S.C. § 1007);
- D. Contract Disputes Act of 1978 (*41 U.S.C. § 7101 et seq.*);
- E. Internal Revenue Code provisions regarding the authority to make credits or refunds (*26 U.S.C. § 6402*);
- F. Federal Claims Collection Standards (FCCS) (Title 31, Code of Federal Regulations (CFR), parts 900-904);

G. Regulations for collection by offset from indebted government employees (5 CFR, Part 550, subpart K);

H. Regulations for the collection of past-due support by administrative offset (31 CFR 285.1); and

I. Additional statutes and regulations listed by Treasury's Bureau of the Fiscal Service (Fiscal Service).

## 0202 GENERAL GUIDANCE

### \*020201. Prompt Collection of Debt

DCOs must promptly and aggressively initiate collection action on all established debts owed to the DoD and must complete follow-up actions to ensure successful repayment to the DoD. DCOs may utilize Treasury-designated debt collection centers to pursue collection. For additional information, refer to Treasury's Centralized Receivables Service web page.

### 020202. Statute of Limitations for Collecting Debts

#### A. Time Limits for Debt Collection Litigation

1. The DoD may refer a debt to the Department of Justice (DOJ) for litigation against a debtor in order to enforce collection or obtain a judgment in favor of the DoD. Federal law limits the period of time within which an agency may file a lawsuit to collect a debt. In accordance with 28 U.S.C. § 2415, the statute of limitations for filing a lawsuit to pursue debt collection is generally the later of 6 years from the date the right of action accrues (date of delinquency), or 1 year after a final decision has been rendered in an administrative proceeding, such as an action before the Armed Services Board of Contract Appeals. For additional guidance on referring debts to DOJ for litigation, refer to section 0213.

2. Determining the statute of limitations for debt collection litigation is subject to numerous considerations and exceptions depending on the facts of each case. DCOs should consult their legal counsel for guidance. For example, the deadline for initiating litigation to collect an erroneous payment to a Federal employee is 6 years after the right of action accrues (unless otherwise provided by statute); however, a partial payment or a written debt affirmation restarts the 6-year period. Refer to 28 U.S.C. § 2415(d).

3. The time limits for initiating litigation to pursue debt collection do not apply to collection by other means, such as collection by salary offset or administrative offset.

B. Time Limit for Collection by Administrative Offset. Section 14219 of Public Law 110-246 amended 31 U.S.C. § 3716(e) to eliminate the 10-year statute of limitations on collection by administrative offset. In 2016, Section 671 of Public Law 114-328 amended 37 U.S.C. § 1007 and provided a new statute of limitation for the collection of certain debts incurred

on or after December 23, 2016, by a member of the uniformed services. As a result, time limits on the collection of debts differ for civilians and members of the uniformed services as follows.

1. Civilians. There is no statute of limitation on debt collection from current or former civilian employees. All debts, including those previously ineligible for collection prior to the removal of the time limit, may be collected by administrative offset without any time limitation. Debts more than 10 years delinquent as of December 31, 2009, which were previously ineligible for collection, may now be collected by administrative offset, provided additional notice and due process requirements are met. If a debt has been closed out, the debt cannot be reopened for administrative offset. Refer to Volume 4, Chapter 3 for additional guidance on debt closeout.

2. Members of the Uniformed Services. The statute of limitation on debt collection from members of the uniformed services depends on several factors.

a. Debts Incurred On or After December 23, 2016. If a member incurs a debt to the United States on or after December 23, 2016, the indebtedness may only be recovered if collection commences before the end of the 10-year period beginning on the date the member incurred the debt. Generally, the date a debt is “incurred” by a member is the date the overpayment is received by the member. The date debt collection commences is typically when the member receives written notification of the debt. The 10-year limitation applies only to debts that meet all of the following requirements:

(1) The debt must have been incurred through no fault of the member;

(2) The debt must be the result of the overpayment of pay or allowances, or be incurred upon the settlement of the member’s accounts; and

(3) The debt must belong to a current, retired, or former member.

b. Debts Incurred Before December 23, 2016. Indebtedness incurred by a member prior to December 23, 2016, should be recovered, even when recovery efforts commence after the end of the 10-year period following the date on which the debt was incurred by the member.

020203. Method of Payment

Debts may be paid in the form of cash, check, money order, wire transfer, or electronic funds transfer (EFT). When a contractual basis exists, demand may be made for the return of specific property or the performance of specific services. Debts may otherwise be resolved by law, regulation, contract, or agreement. Refer to Volume 4, Chapter 3 for guidance on disposition of funds [collected](#).

## 020204. Return of Property to Settle Indebtedness

Nothing in this volume is intended to preclude the DoD from demanding the return of specific Government-furnished property or the payment of the value of the property.

## 0203 RECOVERY TOOLS FOR DEBTS

## 020301. Common Debt Collection Methods Used by the DoD

The following are the most common recovery tools or methods of collection used to collect debts owed to the DoD.

A. Voluntary Repayment or Voluntary Offset. Whenever possible, the DoD should collect a debt in a single lump-sum payment from the debtor. A debtor may also request to make payment by installment agreement or may permit the withholding (offset) of funds payable to the debtor by the United States. Voluntary repayment via direct remittance or offset is the preferred method for collecting debts.

B. Involuntary Salary Offset. The DoD maintains the authority to collect involuntarily from an individual debtor's current salary or pay as authorized by statute. Refer to section 0209 for guidance on involuntary salary offset from DoD civilian employees and Service members.

C. Administrative Offset. The DoD maintains the authority to refer a debt for involuntary collection by administrative offset from any available funds payable to the debtor by the United States, as authorized by statute. Administrative offsets may be taken against tax refunds, retirement payments, contract payments, travel reimbursements, and/or other Federal payments owed to the debtor. Refer to section 0209 for additional guidance on administrative offset and section 0211 for guidance on the Treasury Offset Program (TOP) for the administrative offset of any available funds payable to the debtor by the United States.

## 020302. Other Collection and Recovery Tools

Collection from other sources, including liquidation of collateral or security, is not a prerequisite to requiring payment by a surety or insurance concern unless expressly required by law. The following are other collection and recovery tools to consider when attempting to collect debt owed to the DoD:

A. Suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges (except for disaster loans and where exempted by the Under Secretary of Defense (Comptroller) or the Comptroller's designee, the Deputy Chief Financial Officer, DoD);

B. Liquidation of security or collateral by the DoD Component through a power of sale or non-judicial foreclosure if debtors fail to pay debts within a reasonable time after issuance of a demand letter, if such action is in the best interest of the Government. The DoD



Component must give consideration to security or collateral disposition costs as compared to amounts that might be received from such a sale. After the DoD Component liquidates the security or collateral to satisfy a debt, the DoD Component must give the debtor a written notice of sale and an account of surplus proceeds, in accordance with applicable laws or regulations. The servicing general counsel should be contacted if there is a bankruptcy filed, which is possible if there is a liquidation of security or collateral (refer to section 0215 for guidance on debtors involved in bankruptcy proceedings);

- C. Collection in installments;
- D. Administrative wage garnishment;
- E. Compromise of debt;
- F. Credit bureau reporting;
- G. Contracting with collection agencies;
- H. Submission of the debt to DOJ for litigation in order to enforce collection or obtain a judgment in favor of the DoD;
- I. Acceleration of collection of the debt, which is when the DCO considers the total amount of the debt delinquent and demands the debtor pay the entire debt (both the delinquent and non-delinquent portions of the debt). Acceleration is particularly appropriate when a debtor has failed to repay the debt in accordance with an installment plan, or when the debtor will be separating from military or civilian service prior to the end of the installment payment period; and
- J. Rescheduling the debt in order to revise the repayment period.

#### 0204 DUE PROCESS

##### 020401. General

A. In the context of Federal debt collection, the constitutional right of “due process” requires an agency to provide debtors with written notice of the debt and an opportunity to dispute the debt. Due process is required prior to an involuntary salary offset (5 U.S.C. § 5514) or administrative offset (31 U.S.C. § 3716). Except under certain limited circumstances, debtors must receive due process prior to the initiation of debt collection. Written debt notifications must adhere to the requirements at section 0205. The requirements for disputing a debt are set out in Chapter 4.

B. The requirements of due process do not preclude a debtor from repaying the debt prior to or during due process. A debtor may elect to repay the debt at any time after receiving the initial notification of indebtedness, the reconsideration or review results from the DCO, a determination by a hearing official, or a decision on a request for waiver or remission of the overpayment. Repayment may also be accepted from the debtor while any of these actions are

pending. If payment has been received, and the debt is later determined to be invalid, depending on the circumstances, a full or partial refund (including interest and fees) may be necessary.

020402. Requirements for Routine Pay Adjustments

A. In accordance with 5 U.S.C. § 5514, DCOs are not required to provide due process procedures prior to collecting overpayments of pay and allowances from Federal employees and Service members through routine intra-agency pay adjustments that have occurred within the four pay periods preceding the adjustment, or for any adjustments that amount to \$50 or less. The debtor must be provided with a written notice of the nature and the amount of the adjustment, as well as a point of contact for questions regarding the adjustment, by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical.

B. Routine pay adjustments may be used to correct clerical errors, administrative errors, or delays in processing pay documents. Routine pay adjustments include, but are not limited to, correcting overpayments due to corrected or late time and attendance data or late or incorrect personnel actions. The actual overpayment must have occurred after April 26, 1996. Adjustments for health benefits and life insurance premiums made within four pay periods are covered by [5 CFR 550.1104\(c\)](#).

C. The amount deducted for the routine adjustment may not exceed 15 percent of disposable pay, unless the debtor has consented in writing to a higher amount. When the debtor is a Service member, the servicing military pay office will generate a “no pay due” management notice when a debt creates a “no pay due” situation.

D. If a DoD debtor’s payroll account is moved from one payroll office to another payroll office within the DoD, then the new payroll office has the authority to collect an overpayment made by the former payroll office using routine adjustment procedures.

020403. Authority to Initiate Collection Before Due Process is Granted

Under [31 CFR 901.3\(b\)\(4\)\(iii\)\(C\)](#), in certain limited circumstances, a DCO may use accelerated procedures to collect a debt by salary or administrative offset prior to, or while providing, notice and an opportunity for review to the debtor. The DCO may initiate collection before due process is given if failure to take the offset would substantially prejudice the DoD's ability to collect a debt, or if there is insufficient time before payment to the debtor to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review is not provided prior to collection, then such notice and opportunity for review must be given to the debtor as soon as practicable. Any amount recovered by offset, which is found not to be owed by the debtor, must be promptly refunded.

## 0205 DEBT NOTIFICATION LETTER

## 020501. General Requirements for Debt Notification Letter

The FCCS requires the issuance of one debt notification letter to the debtor. Debt notification letters must include the due process notification requirements listed in the Fiscal Service's, "[Managing Federal Receivables](#)," Appendix 8. The requirements for the notice of indebtedness can be found in 5 U.S.C. § 5514, 5 CFR 550.1104(b) and (d), [31 CFR 901.2](#), and [31 CFR 285.7\(d\)\(4\)](#).

## 020502. When to Issue a Debt Notification Letter

A. DCOs must issue the initial debt notification letter to the debtor within 5 working days following confirmation of the existence and validity of the debt, the basis of indebtedness, and the amount of the debt. Only one due process debt notification is required to be issued to the debtor. DCOs may issue additional demand for payment letters at 30-day intervals after the date of the initial debt notification letter when deemed appropriate by the DCO.

B. DCOs must exercise care to ensure the debt notification letter is dated the same day the letter is mailed to the debtor's last known address or hand-delivered to the debtor. The DCO is required to retain a copy of the debt notification letter as part of the debtor's file. When warranted by the facts of a particular case, a DCO is not prohibited from issuing a written demand for payment to the debtor prior to issuing the due process debt notification letter; however, salary and administrative offset may only begin after due process has been completed.

## 020503. Debt Notification Letters Issued by Disbursing Officers

Disbursing officers are responsible for issuing a debt notification letter under specific circumstances in accordance with Volume 5, Chapters 6 and 8.

## 020504. Debt Notification Letters Issued by a Contracting Officer or Other Designated Official

The contracting officer, or other designated official, will issue a debt notification letter in accordance with the guidance in Chapter 5.

## \*020505. Content of Debt Notification Letters

A sample debt notification letter used by the Defense Finance and Accounting Service (DFAS) Civilian Pay DCO is available at Figure 2-1, and a sample debt notification letter used by the Military Pay DCO is available at Figure 2-2. DCOs outside of DFAS may modify the sample debt notification letter as they deem necessary; however, all debt notification letters should contain the following [information](#).

A. Statement of Facts Regarding the Debt. The debt notification must include an explanation of the amount and reason for the indebtedness, the authority for establishing the debt, and the basis on which the determination of indebtedness was made.

B. Request for Lump-Sum Payment. A request for a lump-sum payment is a request that the debt be repaid in a lump sum by check, money order, or electronic funds transfer.

C. Payment Due Date. Payment due date is the date by which payment must be made to avoid incurring interest, penalties, administrative (IPA) fees, and enforced collection. The due date must not be more than 30 days from the date of the initial debt notification letter, unless otherwise mandated by statute, contract provision, or another notice of indebtedness. A due date more than 30 days from the date of the debt notification letter may also be allowed based on unusual circumstances as determined by the agency (for example, medical-related debts where insurance is billed first).

\* D. Right to Request a Review or Hearing. The debt notification must include a statement indicating that if the debtor wishes to dispute the existence or amount of the debt (or contest the repayment schedule for collection by salary offset), then the debtor may do so by submitting a written request for review or hearing petition. See Chapter 4 to determine whether debtor is eligible for a hearing or review. The notification must advise the debtor of the method and period of time for filing the request for review or hearing petition, typically 30 days from the date of the debt notification letter. It must also state that the timely filing of a request for review or hearing petition will stay the beginning of collection proceedings, and that interest and penalty charges will not be collected until and unless a determination is issued in favor of a collection. Detailed review or hearing petition instructions may be provided to the debtor online through the Internet. This process does not apply to contractor debts. For information regarding the contractor debt dispute process, refer to Chapter 5.

\* E. Right to a Written Decision. The debt notification must advise the debtor that if a review or hearing is granted, the debtor has the right to receive a written decision from the reviewer or hearing official within 60 days after the filing of the request for review or hearing petition. In the case of a hearing, the hearing official may grant a request for a delay in the proceedings.

F. Right to Inspect Records. The debt notification must advise the debtor that he or she has the right to inspect and copy the DoD records relating to the debt.

G. Voluntary Repayment Agreement Information. The debt notification must advise the debtor of the opportunity to establish a schedule for the voluntary repayment of the debt by entering into an installment payment plan if the debtor claims, and can support, an inability to repay the debt in a single lump sum.

H. Right to Request a Waiver or Remission. If applicable for individual debtors, include a statement regarding the right to request a waiver or remission of the indebtedness in accordance with applicable statutory authority for waiving or remitting a debt. Detailed waiver application instructions may be provided to the debtor online.

I. Collection Action on Delinquent Debts. Include a statement indicating that if the DCO is unable to collect a debt, other collection methods may be used, such as referring the debt to a private collection agency (PCA), reporting the debt to a credit bureau, garnishing non-Federal employment wages, or referring the debt to DOJ for litigation. Inform the debtor that any debts delinquent for more than 120 days are required to be transferred to Treasury for collection, and in some cases, the debt may be transferred sooner. Components that follow the procedures contained in the [Delinquent Debt Management Guidance](#) (DDMG) should refer delinquent debts older than 90 days to the Fiscal Services Debt Management Services (DMS) for further collection action where appropriate.

J. Collection from Final Pay of Employee. Include a statement indicating that any portion of a debt remaining at the time of separation may be collected from the debtor's final pay and allowances.

K. IPA. The debt notification must contain a statement explaining the requirements under [31 CFR 901.9](#) to assess IPA, including:

1. An explanation that if the debt is not paid by the due date, then interest will be charged from the date of delinquency, or from the date specified in the repayment agreement, if applicable (refer to the Definitions chapter for a definition of date of delinquency). Include a statement indicating that the interest rate will be calculated pursuant to 31 CFR 901.9;

2. An explanation that if the debt is not paid in full by the due date stated in the debt notification letter, then the DCO will assess administrative costs for the processing and handling of the delinquent debt; and

3. An explanation that if the debt is delinquent for more than 90 days, then the DCO will assess a penalty, not to exceed 6 percent per annum, on the unpaid portion of the debt accruing from the date of delinquency.

L. Point of Contact. Include a statement identifying the name, mailing address, email address, fax number, and telephone number of a point of contact the debtor may contact regarding the debt.

M. Payment Address. Provide the address where payment should be mailed or delivered (including instructions for Pay.Gov or EFT, where applicable), and include notice that the check, money order, or wire transfer must be made payable to Treasury.

N. Penalty for False or Frivolous Statements. The debt notification letter must indicate the consequences of knowingly providing false or frivolous statements, representations, or evidence, which include:

1. Disciplinary procedures for Federal employees under 5 U.S.C. [Chapter 75](#), [5 CFR 752](#), or any other applicable statutes or regulations;

2. Penalties under the [False Claims Act](#) (31 U.S.C. § 3729-3733) or any other applicable statutory authority; or

3. Criminal penalties under [18 U.S.C. § 286, 287, 1001, and 1002](#), or any other applicable statutory authority.

O. [Bankruptcy](#). Include a statement indicating the debtor is responsible for notifying the DCO if the debtor files or has filed for bankruptcy.

P. [Right to a Refund](#). Include a statement that amounts paid or deducted for the debt, which are later waived or found not to be owed to the Government, will be refunded promptly to the debtor, unless prohibited by law.

Q. [Tax Filing](#). Provide notice that for joint income tax filers, the spouse should file Internal Revenue Service (IRS) [Form 8379](#), Injured Spouse Allocation, with the IRS to claim his or her share of the tax refund.

R. [Salary Offset Procedures](#). Where applicable, state the DCO's intention to collect the debt of a Federal employee by means of payroll deductions (salary offset) if payment is not received within 30 days. Identify the amount, frequency, proposed beginning date, and the duration of deductions by salary offset.

#### 020506. Duplication of Debt Notification

When a debtor has previously been provided with due process with respect to a debt, there is no need to duplicate due process requirements before initiating administrative offset with regard to the same debt, except as provided in subparagraph 020202.B. DCOs will implement salary or administrative offset procedures as funds or monies become due and payable to a debtor.

### 0206 RESPONDING TO DEBTOR INQUIRIES

The DCO should respond promptly to any questions raised by the debtor, normally not later than 30 days from the date of receipt of the debtor's correspondence. The DCO must provide copies of relevant documents requested by the debtor.

### 0207 VOLUNTARY REPAYMENT OF INDEBTEDNESS

#### 020701. Lump-Sum Repayment

Lump-sum repayment in full is the preferred method of collection. DCOs must encourage debtors to repay their debts through lump-sum payments by EFT (for military personnel and contractors), personal check, money order, or Pay.Gov. Lump-sum collections by offset from current pay or salary cannot exceed the percentages specified in subparagraph 020902.C or any other applicable regulation, unless voluntarily agreed to by the debtor.

## 020702. Voluntary Repayment by Installment

A. General. If the Component determines that the debtor is financially unable to pay a debt in a lump sum, then the DoD may accept voluntary repayment from the debtor in regular installments, rather than proceeding with collection by an involuntary salary or administrative offset. Installment agreements must be in writing as specified in paragraph 020802. DCOs must include a copy of a voluntary repayment agreement in the debt notification issued to the debtor. Refer to Figure 2-1, Enclosure 4 and Figure 2-2 for a sample voluntary repayment agreement.

B. Amount of Installment Payment for Individual Debt. The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. Installment payments should be at least \$50 per month unless a debtor can prove financial hardship. The installment payments should be sufficient in size and frequency to liquidate the debt in 3 years or less; however, a greater amount of time may be appropriate based on the size of the debt and the debtor's ability to repay. An installment payment plan is typically only appropriate if the total debt amount is at least 5 percent of the individual's annual disposable pay. Unless voluntarily agreed to by the debtor, the amount of the installment payments from an individual's current pay or salary must not exceed the offset percentages established in subparagraph 020902.C.

C. Review of Proposed Installment Agreements. DCOs must forward requests for installment payment plans from contractors/vendors to the Debt Management Office (DMO) for review and appropriate action. DCOs will review proposed installment agreements submitted by Service members and DoD civilian employees. The Debt and Claims Management Office (DCMO) will review proposed installment agreements submitted by individuals who are no longer employed by the DoD. The DCO/DMO/DCMO must review the proposed installment agreement submitted by the debtor using the criteria set out in paragraph 020801 and must notify the debtor as to whether the proposed agreement is acceptable.

D. Installment by Payroll (Salary Offset) or Cash Repayment. Individuals may make installment payments through payroll deductions or by submitting cash repayments on a monthly basis or each pay period. Cash repayment includes payments by EFT, personal check, money order, or another negotiable instrument. Any amount remaining unpaid at the time of separation or retirement will be collected from final lump-sum payments of any nature, such as final salary, lump-sum leave, and/or bonuses.

E. Applying Receivables. When a receivable is collected by installment payment, apply amounts received first to contingency fees, second to outstanding penalties, third to administrative costs, fourth to interest, and last to principal. Contingency fees are defined as administrative costs resulting from fees paid by one Federal agency to other Federal agencies or private collection contractors for collection services rendered when the fees are paid from the amounts collected from the debtor.



## 0208 CONSIDERING AND PROCESSING INSTALLMENT AGREEMENTS

## 020801. Proposed Installment Agreement Review Criteria

A. An installment repayment schedule should adequately protect the interests of both the DoD and the debtor. The DCO must ensure the debt is recoverable within the shortest practical period of time, taking into consideration the financial impact on the debtor.

B. A debtor may negotiate the terms of an installment repayment schedule if the schedule proposed by the agency would subject the employee to an extreme financial hardship. An extreme financial hardship means the proposed repayment schedule would prevent the debtor from meeting the costs necessary for essential subsistence expenses of the debtor, the debtor's spouse, and dependents. Essential subsistence expenses include costs incurred for food, housing, necessary public utilities, clothing, transportation, and medical care. Upon the agency's request, the debtor must submit financial statements in support of a proposed installment payment plan. The agency may enter into installment agreements only when there is sufficient evidence the debtor will be able to abide by the terms of the agreement, including the repayment schedule. The DCO should base its decision to accept or deny a proposed installment agreement on a review of the following factors:

1. Age and health of the debtor;
2. Present and potential income;
3. Inheritance prospects;
4. Possibility of hidden assets or fraudulent transfers;
5. Assets/income available through enforced collection;
6. Reasonable and necessary living expenses for the debtor and the debtor's dependents;
7. Income from all sources and expenses for the individual, spouse, and dependents;
8. The extent that assets of the individual, spouse, and their dependents are available to meet the offset and essential subsistence expenses;
9. Whether subsistence expenses have been reduced to minimum essential amounts;
10. The extent to which an individual or spouse can borrow money to meet the offset and minimum subsistence expenses; and



11. The extent to which the individual, spouse, and dependents have other exceptional expenses that should be taken into account and whether these types of expenses have been minimized.

020802. Installment Payment Agreement Terms and Processing

The DCO must obtain signed, legally enforceable, written installment agreements (such as a Voluntary Repayment Agreement or Promissory Note) from the debtor. Such agreements must specify the terms agreed upon by the parties, including terms governing the assessment of IPA charges. The agreement must contain a provision for accelerating the debt, which requires that the remaining debt balance be due and payable immediately upon the debtor's default on the agreement. The agreement must state that the DCO will require the debtor to submit financial statements annually, as necessary, whenever the repayment period exceeds 3 years.

A. Receipt of an Acceptable Agreement. After receiving a signed agreement, the DCO will begin collecting the debt pursuant to the agreement. If requested by the debtor, and agreed to by the agency, the remittance may be deferred for up to [two](#) pay periods with the agreement adjusted to reflect that deferral.

B. Receipt of an Unacceptable Agreement

1. Individual Debtors. If the DCO determines a proposed repayment agreement submitted by an individual debtor is unacceptable, then the DCO must notify the individual debtor in writing. The debtor will then have 30 days from the date of the written notice to request a special review by the DCO or file a petition for a hearing (or review for military members) under Chapter 4, [sections 0403](#) or [0406](#).

2. Contractor/Vendor Debtors. The DMO must obtain consent from the creditor DoD Component's senior financial manager or designee before denying a contractor's request for an installment agreement. Refer to Chapter 5 for additional contract debt guidance.

020803. Installment Payment Delinquency

If a debtor does not make an installment payment by the due date, the entire balance of the debt becomes delinquent from the due date of the missed payment. A debt being repaid under an installment plan is not delinquent if payments under the installment agreement are current. Interest will be assessed on a debt being paid by installment until the debt is paid in full. Penalties may be assessed on any portion of the debt that is outstanding for more than 90 days.

020804. Review of Installment Agreements

As required, DCOs must review the debtor's annual financial statements and determine whether to collect the balance due in a lump sum or continue the installment agreement at the same or increased amounts. A debtor's request to decrease installment payments based on materially changed circumstances may be considered at any time. The request must include financial data confirming the debtor's inability to pay the full amount of the agreed upon installment plan. DCOs

should not reduce installment payment amounts if there is a determination that the debtor could have controlled the financial condition that impacted the debtor's ability to meet existing installment payment requirements.

## 0209 INVOLUNTARY COLLECTION OF DEBT BY SALARY AND ADMINISTRATIVE OFFSET

### 020901. General

When a debtor does not pay a debt voluntarily, agencies have the right to offset monies otherwise owed to a debtor in order to extinguish a debt. Where specific statutory authority exists for the collection of a particular debt by offset, the provisions of the statute and its implementing regulations must be used in determining the applicable collection procedures (for example, specific statutory authority exists under [5 U.S.C. § 5705](#), [5 U.S.C. § 5512](#), [10 U.S.C. § 2775](#), and 37 U.S.C. § 1007). However, when a more specific statute does not exist, DCOs must use the general collection authority under 5 U.S.C. § 5514 for salary offset from the current pay of individuals employed by the DoD, or 31 U.S.C. § 3716 (covered in paragraph 020903) for administrative offset of other payments from the Government that are due a debtor. [Refer to Chapter 3 for more specific instructions on involuntary collection of debt for Service members and civilians.](#)

### \*020902. Salary Offset Under 5 U.S.C. § 5514

DCOs may initiate salary offset to collect indebtedness by installment deductions under 5 U.S.C. § 5514 for debtors who are receiving pay from the DoD. This statute authorizes the involuntary collection of indebtedness of [Service members](#), DoD civilian employees, and Nonappropriated Fund Instrumentality (NAFI) employees from their current pay or salary accounts. Use 5 U.S.C. § 5514 as the authority for salary offset when offset is not authorized or required by other more specific statutes. If the debtor is not currently employed by the DoD and owes a debt to the DoD, the DCO must forward the debt to the DCMO for collection using administrative offset under paragraph 020903. If the debtor is a separated [Service member](#), and the debt is not subject to salary offset, the DCO must forward the debt to the DCMO for collection using administrative offset under paragraph 020903.

#### A. Due Process

1. When a debtor has either failed to pay the debt in one lump sum, has not agreed to a voluntary one-time payroll deduction, or has not entered into an installment agreement, the DCO must recover the debt by an involuntary salary offset. Before initiating involuntary salary offset, the DCO must ensure the debtor has been given due process pursuant to section 0204, and the debtor has not exercised the rights listed in the debt notification letter or, having exercised one or more of those rights, was determined to be indebted.

2. The DCO must ensure involuntary salary offset is initiated in the pay period designated in the debt notification letter, unless the period for salary offset was delayed by the debtor's request for a hearing (or request for a review by a military member). When practical, the DCO will notify the debtor of an offset on the Leave and Earnings Statement. The

DCO may initiate collection of a debt from final pay and lump-sum leave payments before granting due process if failure to do so would substantially prejudice the DCO's ability to collect a debt. In such cases, the DCO must afford the debtor due process as soon as practicable. There is no statute of limitations for collecting a debt by salary or administrative offset for civilians, provided notice and due process requirements are met. Refer to subparagraph 020202.B.2 for information on the statute of limitations for initiating collection of debts owed by members of the uniformed service.

B. Excluded Debts. The following debts are not authorized for collection by salary offset:

1. Collection of debts to private creditors, except as authorized by [Public Law 103-94](#), "Hatch Act Reform Amendments of 1993;"
2. Contributions to charities;
3. Payment of commercial life insurance premiums, international agreements, or arrangements with foreign governments;
4. Payment of dues to civic, fraternal, or other organizations; or
5. Collection of state and local/city tax indebtedness.

C. Disposable Pay. Disposable pay is the current pay that remains after any legally required deductions from earnings are withheld. Refer to [5 CFR 550.1103](#) for a definition of disposable pay. All involuntary salary offset under 5 U.S.C. § 5514 is limited to a maximum of 15 percent of the debtor's disposable pay unless the debtor gives written consent to deductions at a greater percentage. Involuntary salary offset will normally be established at this maximum rate. If salary offset mistakenly exceeds 15 percent of disposable pay when the debtor has not consented to deductions at a greater percentage, the DCO will refund the difference upon the debtor's request. DCOs will compute the amount of disposable pay available for salary offset by making the following deductions:

1. Amounts withheld for Federal, state, or local income tax purposes, if the withholding of the amounts is authorized or required by law, and if the amounts withheld are not greater than would be the case if the individual claimed all dependents as defined in the Federal, state, and local tax codes. For computing disposable pay, no additional Federal tax amounts will be deducted unless the individual presents evidence of a tax obligation supporting the additional deduction;
2. Amounts withheld for Social Security and Medicare taxes;
3. Amounts deducted as health insurance premiums;
4. Amounts deducted as normal retirement contributions (Civil Service Retirement System, Federal Employee Retirement System (FERS), FERS-Revised Annuity Employees, FERS-Further Revised Annuity Employees, and Nonappropriated Fund Retirement),

including Thrift Savings Plan (TSP), Roth TSP, and Armed Forces Retirement Home contributions. Amounts voluntarily contributed toward additional retirement benefits are not normal retirement contributions; and

5. Amounts deducted as normal life insurance premiums from salary, including amounts deducted for basic Federal Employee Government Life Insurance (FEGLI). However, all optional FEGLI premiums are not considered normal life insurance premiums. Also included is Servicemembers' Group Life Insurance (SGLI), including Family SGLI and Traumatic SGLI.

D. Amounts Not Deductible When Computing Disposable Pay. Do not deduct the following amounts when computing disposable pay for the purpose of salary offset:

1. Deductions for any existing debts being collected for a DoD Component or other Federal agency, including late payment charges;
2. Amounts to satisfy court-ordered garnishments;
3. Amounts to satisfy a court judgment;
4. Court-ordered bankruptcy payments under Chapter 13 of the Revised Bankruptcy Act;
5. Voluntary allotments for child support;
6. Union dues deductions;
7. Charity deductions;
8. IRS Federal tax levies;
9. Savings allotments;
10. TSP loans; or
11. Military Service Deposits.

\* E. Debtor Disagrees with Amount to be Withheld. If the debtor contends that the rate of salary offset proposed, or already established by the DCO, would produce an extreme financial hardship, then in accordance with 5 U.S.C. § 5514, the debtor may at any time:

1. Petition for a hearing with a hearing official to contest the amount of the salary offset ([civilian debtors](#)) [within the timeframe noted on the debt notification](#). Military members [whose debts are collected under 37 U.S.C. § 1007](#) may request a review of the repayment schedule by the DCO [within the noted timeframe](#). Refer to Chapter 4 for guidance on hearing or review requests; or

2. Request a special review by the DCO. An individual debtor may request a special review by the DCO of a proposed or established salary offset amount. The request for special review of the established rate of salary offset should be based on the debtor's materially changed circumstances, such as catastrophic illness, divorce, death, or disability.

a. Debtor Request. The debtor must submit a written request for special review. The debtor must provide an alternative offset schedule with supporting documents showing why the current or proposed salary offset amount would produce an extreme financial hardship. The supporting documents should include the following information for the debtor, his or her spouse, and dependents: income from all sources, assets, liabilities, number of dependents, expenses for food, housing, clothing and transportation, medical expenses, and other exceptional expenses (if any).

b. DCO Response to Debtor. The DCO must evaluate the information submitted by the debtor and issue a written determination concerning the debtor's request for a revised salary offset amount. The DCO should inform the debtor of the acceptance or denial of a revised salary offset amount within 15 days from the date of receipt of the debtor's request for special review. If the DCO approves the debtor's request to reduce the salary offset amount, the reduction will begin immediately upon the issuance of the written determination.

F. Multiple Debts and Priority of Deductions. When a debtor owes more than one debt, deductions for the current debt and any previously established debts will continue until the debts are paid in full. If prioritizing deductions is necessary, then collect debts owed by debtors to more than one DoD Component, or another Federal agency, in the following priority sequence:

1. Debt to the debtor's employing agency or department,
2. Debt to other DoD Components, then
3. Debt to other Federal Agencies.

020903. Collection by Administrative Offset Under 31 U.S.C. § 3716

A. General

1. Administrative offset under 31 U.S.C. § 3716 allows the Government to withhold or intercept funds from monies payable by the United States to a person, organization, or entity in order to satisfy a debt owed to the Government. Administrative offsets may occur against tax refund payments, salary payments, military and civilian retirement pay, contractor payments, grant payments, benefit payments, travel reimbursement, and other Federal payments.

2. Two administrative offset methods are used by agencies to offset a debtor's payments from the Government. Centralized offset uses TOP operated by the Treasury in order to intercept Federal payments due a debtor. Refer to section 0211 for procedures on referring debts to Treasury. An agency may use non-centralized offset in cases where offset

through TOP is not available or appropriate. Non-centralized offset is an ad hoc method of offset performed on a case-by-case basis that the agency executes internally or in cooperation with another agency certifying payments to the debtor.

B. Exclusions. Administrative offset under 31 U.S.C. § 3716 does not apply to:

1. Offset against Federal salaries if the FCCS are inconsistent with regulations implementing salary offsets under 37 U.S.C. § 1007 or 5 U.S.C. § 5514;

2. Offset under [31 U.S.C. § 3728](#) against a judgment obtained by a debtor against the United States;

3. Offset or recoupment under common law, state law, or Federal statutes specifically prohibiting offset or recoupment of particular types of debts; or

4. Offset in the course of judicial proceedings, including bankruptcy.

C. Collection Under Common Law. Debts not subject to administrative offset under 31 U.S.C. § 3716 may still be collected by offset under the common law or another applicable statute.

D. Collecting Debts Owed by Individuals

1. If a DCO cannot collect a debt because no recovery is available from salary offset under 5 U.S.C. § 5514 (or another statute authorizing offset from pay), and the debtor has failed to pay the debt in lump sum or by an installment repayment agreement, then the DCO should refer the debt to the DCMO for administrative offset under 31 U.S.C. § 3716. The DCMO offers debt management and collection assistance to DoD Components for delinquent debts owed to the DoD. Refer to Chapter 3, [section 0305](#) for guidance on referring debts to the DCMO.

2. Upon receiving a debt, the DCMO will pursue all collection action on the debt available under 31 U.S.C. § 3716. The DCMO will service the debt by using various collection procedures including issuing demand for payment letters, referring the debt to credit reporting agencies, or referring the debt to the Treasury Cross-Servicing Program. When appropriate, the DCMO will refer uncollectible debts to TOP for centralized offset of any Federal payments due the debtor. Refer to section 0211 on the referral of debts to TOP and/or the Treasury Cross-Servicing Program. Refer to Chapter 3, paragraph 030208 for additional guidance on the collection of indebtedness from final salary and lump-sum payments under 31 U.S.C. § 3716.

a. Due Process Requirements Prior to Administrative Offset Under 31 U.S.C. § 3716. Before the DCO initiates administrative offset under 31 U.S.C. § 3716, a debtor must receive due process (notice of the debt and an opportunity for review). The DCO must complete all due process requirements under sections 0204 and 0205 prior to sending the debt to DCMO for collection by administrative offset. If the debtor has requested a hearing [or](#)

review, the DCO must follow the guidance contained in Chapter 4, paragraphs 040303 and 040604 prior to transferring the debt to DCMO for collection.

b. Guidance for Requesting Administrative Offset Within the DoD

(1) Requests by a DCO from one DoD Component for administrative offset against a Service member or civilian employee of another DoD Component are initiated by sending a DoD Form 139 (DD 139), Pay Adjustment Authorization; DD 2481, Request for Recovery of Debt Due the United States by Salary Offset; other prescribed authorized form; or an automated transaction to the debtor's payroll processing activity.

(2) The request must include a certification from the DCO that the debtor owes the debt and that the requesting DCO has fully complied with regulatory requirements (including all due process requirements) concerning administrative offset.

(3) The request must include a mailing address, email address, and phone number for the point of contact at the DCO who will respond to questions or disputes from the debtor.

(4) When a debtor consents to administrative offset in writing or signs a statement acknowledging receipt of due process procedures, the requesting DCO must include the debtor's consent with the request for offset, along with the certification and all supporting documentation. Administrative offset cannot be accomplished until the DCO has provided all of the supporting documentation for the debt. For those debts transferred to DCMO, the DCMO must advise the debtor of the offset request received from the DCO and issue a demand for payment.

E. Collecting Debts Owed by Vendors/Contractors. DCOs will recover debts internally within the DoD, to the extent practical, by voluntary repayment of the debt by the vendor/contractor, or administrative offset(s) of other payments owed to the vendor/contractor. Refer to Chapter 5, section 0503 for additional guidance on administrative offset for vendors/contractors.

020904. Additional Statutory Authority for Offset

A. Salary and Administrative Offset for Travel Advances Under 5 U.S.C. § 5705

1. While 5 U.S.C. § 5514 and 31 U.S.C. § 3716 provide generalized authority to collect a debt by salary or administrative offset, 5 U.S.C. § 5705 specifically authorizes salary and administrative offset for travel advances authorized under 5 U.S.C. § 5701 et seq. Under 5 U.S.C. § 5705, a Federal employee who is entitled to per diem or mileage allowances may receive a travel advance. Any amount of a travel advance that is not used for allowable expenses is required to be collected back from the employee. DCOs should inform



debtors of the requirement for immediate repayment of unearned advances of per diem and mileage allowances at the time advances are made.

2. When making collections of unused advanced per diem or mileage allowances, DCOs must give DoD debtors the opportunity to pay the amount due in a lump sum. If the debtor does not make a lump-sum payment, then salary or administrative offset must be made immediately against accrued pay, retired pay, travel reimbursement, or any other amount due the debtor from the United States. Hearings are not required prior to salary offset under 5 U.S.C. § 5705; however, DCOs must provide the debtor with a notice of the debt and must reconsider/review debts informally upon the debtor's request. If there is no amount available for salary offset, and the debt must be collected by administrative offset, then the DCO must follow the requirements for debt collection by administrative offset under 31 U.S.C. § 3716.

B. Offset from a Service Member's Pay for Damage to Military Housing Under 10 U.S.C. § 2775. Under 10 U.S.C. § 2775, express authority is provided for the collection of a debt from a Service member's pay for the cost of repair, replacement, or cleaning of military housing necessitated by abuse or neglect by Service members. Debtors are not entitled to a hearing for debts being collected by administrative offset under this statute. However, DCOs must provide the debtor with a notice of the debt and must reconsider/review these debts upon the debtor's request. If there is no amount available for salary offset, and the debt must be collected by administrative offset, then the DCO must follow the requirements for debt collection by administrative offset under 31 U.S.C. § 3716.

C. Offset from a Member's Pay for Administratively Determined Debts Under 37 U.S.C. § 1007. Under 37 U.S.C. § 1007, express authority is provided for offset from a Service member's pay for the collection of debts that are administratively determined to be owed to a DoD Component by the Service member.

D. Administrative Offset to Recover Public Funds Under 5 U.S.C. § 5512. Under 5 U.S.C. § 5512, administrative offset is authorized to offset the pay of an accountable official in arrears to the DoD for all sums for which he or she is liable. This authority only pertains to the collection of a debt when the debt is the result of an individual being held liable for a loss of funds. DCOs will withhold the pay of individuals in arrears to the DoD until the debtor has paid all sums for which the debtor is liable. Refer to Volume 5, Chapter 6 for additional guidance on loss of funds.

#### 020905. Cooperation with Other Government Agencies

A. General. The FCCS requires that the DoD cooperate with other government agencies to collect debts referred for administrative offset except under either of the following conditions:

1. When the DCO determines that the offset would not be in the best interest of the United States with respect to the program against which the offset is requested, as determined by the head of the agency holding funds or monies for offset; or



2. When the DCO determines that the offset would be contrary to another applicable law.

B. Requests for Administrative Offset Received From Non-DoD Federal Agencies

1. If a non-DoD Federal agency determines a debtor works for a DoD agency, then the non-DoD agency may submit a request directly to the DoD for administrative offset from the debtor's pay. The non-DoD Federal agency is responsible for determining the validity and amount of the debt. The DoD is not authorized to determine the merits of the debt for which administrative offset is requested. Refer to Volume 8, Chapter 8 for additional guidance regarding these debts.

2. Requests from non-DoD Federal agencies for administrative offset of DoD salaries or contractor invoices are typically sent through the Treasury Cross-Servicing Program. Requests may also be submitted through the Federal Payment Levy Program.

3. All requests from non-DoD Federal agencies for administrative offset of individual salaries that are received by DoD Components must be forwarded to DFAS-Cleveland (DFAS-CL), 1240 East 9th Street, Cleveland, OH 44199 or via email to ccl-salary-offset@mail.mil. Requests from non-DoD Federal agencies for administrative offset of contractor invoices that are received by DoD Components must be forwarded to Treasury.

C. Requesting Administrative Offset from Civil Service Retirement Disability Fund (CSRDF) or FERS Funds. Chapter 3 outlines procedures for requesting administrative offset from CSRDF or FERS for debts owed by retired DoD civilian employees. To prevent duplicate administrative offset requests, DCOs must not refer the same requests for administrative offset to both the Office of Personnel Management (OPM) and to TOP. These debts are subject to all other collection procedures.

## 0210 REPORTING DEBT TO CREDIT BUREAUS

### \*021001. Authority to Report Debts

Federal agencies must report all delinquent debts to credit bureaus (also referred to as "credit reporting agencies") as part of the agency's debt collection effort pursuant to 31 U.S.C § [3711\(e\)](#). The DCMO (or other DCO as appropriate) must implement procedures for reporting delinquent debts to credit bureaus and other automated databases in accordance with the "Guide to the [Federal Credit Bureau Program](#)," issued by Treasury in 2001. If the DCMO is required to report a non-delinquent debt to a credit bureau, reporting procedures must comply with the "Bankruptcy Code" and the "Privacy Act of 1974" ([5 U.S.C. § 552\(a\)](#)), as amended. Provisions of the Privacy Act do not apply to credit bureaus. Effective March 1, 2007, in accordance with [10 U.S.C. § 2780\(b\)](#), debts incurred by Service members will not be reported to credit bureaus during the time a decision regarding waiver or remission/cancellation of the debt is pending, **unless the Secretary concerned determines that disclosure pending such a decision is in the best interest of the United States.**

## 021002. Notification to Debtor of Intent to Report to a Credit Bureau

The DCMO or DMO must ensure the debtor has been given notice before reporting a delinquent debt to credit bureaus. Duplication of previously provided due process notifications is not required prior to reporting the debt to the credit bureau as long as the following information has been provided to the debtor:

- A. A statement that the agency intends to report the debt to a credit bureau;
- B. A statement that the information to be reported will include the debtor's name, address, taxpayer identification number (TIN), and information about the debt;
- C. Actions that may be taken by the debtor to prevent credit reporting (i.e. repayment of the debt in full or repayment by installment agreement); and
- D. [A complete explanation of the debt, along with information about the debtor's right to dispute the debt, to review records about the debt and to seek a review or hearing, if applicable, of the agency's determination that the debt is due.](#)

## 021003. Requirements for Reporting Debts to Credit Bureaus

Prior to reporting a delinquent debt to a credit bureau, the DCMO must:

- A. Comply with the provisions of the Privacy Act of 1974;
- B. Ensure the DCO has made a determination that the debt is valid and overdue;
- C. Ensure the DCO has complied with the requirements in section 0204 and has issued a debt notification letter to the debtor that complies with the requirements of section 0205;
- D. Determine that the debtor has not:
  - 1. Repaid or agreed to repay the debt under a written repayment plan the debtor has signed, and the DoD Component or DCO has agreed to; or
  - 2. Filed a hearing petition for review of the debt under Chapter 4;
- E. Ensure there are procedures to:
  - 1. Disclose promptly, to each credit bureau to which the original disclosure was made, a substantial change in the condition or amount of the debt;
  - 2. Verify or promptly correct, information about the debt on request of a credit bureau; and

3. Obtain satisfactory assurances from each credit bureau that the credit bureau is complying with all laws of the United States related to providing consumer credit information; and

F. Ensure information disclosed to credit bureaus is limited to:

1. Information necessary to establish the identity of the debtor, including name, address, and TIN;

2. The amount, status, and history of the debt; and

3. The DoD Component or program under which the debt arose.

021004. Maintenance of Debt Records

DCOs must retain records for debts reported to credit bureaus in accordance with guidelines of the [National Archives and Records Administration General Records Schedule](#). Bankruptcy information can be reported for 10 years. The credit bureau will only maintain accurate, negative information on a credit report if it is less than 7 years old.

## 0211 REFERRAL TO THE TREASURY

021101. General

A. Treasury has broad collection responsibilities for delinquent debts. Unless otherwise authorized by law, pursuant to Treasury Financial Manual (TFM) Volume I Part 4, Chapter 4000 (~~4-4000~~), Federal agencies are required to refer eligible and legally enforceable debts more than 180 days delinquent to the Treasury Cross-Servicing Program for debt servicing. Agencies are also required to refer any debts more than 120 days delinquent to TOP for recovery by centralized administrative offset. Refer to 31 U.S.C. § 3711(g) and 31 U.S.C. § 3716 for information on referring debts to TOP.

B. Components that have implemented the processes contained in the DDMG should refer delinquent debt older than 90 days and greater than \$25 to the DMS for further collection action where applicable. At the DoD Component's discretion, debts may be referred sooner to protect the DoD's interests.

C. If a debt is first referred to the Cross-Servicing Program, Treasury will submit any remaining amount not collected by cross-servicing to TOP on behalf of the agency. Therefore, in order to comply with the 120 day deadline for submitting debts to TOP, creditor agencies must submit debts more than 120 days delinquent to cross-servicing, rather than waiting until the debt is 180 days delinquent. Once a debt is referred to Treasury, the DoD must cease collection activity related to that debt. Agencies referring debts to Treasury must authorize Treasury to utilize all available collection tools.

D. In most instances, DCOs refer uncollectible debts to the DFAS DCMO for debt servicing first, and the DCMO refers the debts to Treasury for cross-servicing and to TOP. Only those DCOs with specific authority may refer delinquent debts directly to Treasury. Prior to making a referral directly to Treasury, DCOs must consider the DFAS DCMO debt program and procedures in Chapter 3 to determine whether referring the debt to DFAS first would offer more cost-effective service, debt management control, and reporting.

E. DoD Components that do not refer debts to one of the DCOs authorized to make referrals to Treasury must negotiate an agreement with Treasury for debt referrals.

\*021102. Cross-Servicing

A. General. The Debt Collection Improvement Act and the TFM 4-4000 requires agencies to refer all eligible debts that are delinquent more than 180 days to Treasury for cross-servicing under the Treasury Cross-Servicing Program. If an agency does not separately refer debts to TOP, then it must refer eligible debts that are delinquent more than 120 days to cross-servicing in order to meet the requirement for TOP referral. Components that have implemented the processes contained in the DDMG should refer delinquent debt older than 90 days to the DMS for further collection action where applicable. Treasury uses a variety of collection tools to collect the debt under cross-servicing including: issuing demand for payment letters, phone calls, credit bureau reporting, referral to TOP, referral to PCAs, and/or referral of debts to DOJ for litigation. Additional information on the Cross-Servicing Program can be found at the Fiscal Service, DMS, [Cross-Servicing](#).

B. Due Process. The DCO must complete all due process procedures prior to referring a debt to Treasury for cross-servicing. At least 60 days before a debt is referred to Treasury, the DCO must issue the debtor a debt notification that meets the requirements of paragraph 020505.

C. Debts Not [Eligible or Required to be Referred to Treasury for Cross-Servicing](#)

1. Pursuant to Treasury's "Managing Federal Receivables," a debt is not eligible for referral to Treasury for cross-servicing if the debt:

- a. Is not past due or legally enforceable;
- b. Is owed by a debtor who has died;
- c. Is owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in a bankruptcy proceeding;
- d. Is owed by a Federal agency;
- e. Is the subject of an administrative appeal, until the appeal is concluded and the amount of the debt is fixed; or

- f. Is less than \$25 (including IPA costs);
- 2. A debt may be referred for cross-servicing, but is not required to be referred, if the debt:
  - a. Is in litigation, meaning the debt has either been referred to DOJ for litigation or is the subject of proceedings pending in a court of competent jurisdiction, including bankruptcy and post-judgment matters;
  - b. Is in foreclosure, which means the debt is secured by collateral that is being foreclosed, either through a court proceeding or non-judicially;
  - c. Will be disposed of under an approved asset sale program within 1 year after becoming eligible for sale, or later than 1 year if consistent with an asset sales program;
  - d. Has been referred to a private collection contractor for a period acceptable to Treasury;
  - e. Is at a Treasury-designated debt collection center for a period acceptable to Treasury;
  - f. Will be collected under internal offset procedures within 3 years after the debt first became delinquent;
  - g. Is exempt from this requirement based on a determination by Treasury that exemption for a certain class of debt is in the best interest of the United States (the DoD may request that Treasury exempt specific classes of debts);
  - h. Is owed by foreign governments or a NAFI;
  - \* i. Is less than \$100 and belongs to a debtor without a known Tax Identification Number; or
  - \* j. Is otherwise exempt from the statutory referral requirement by law or official action of Treasury.

D. Accountability for the Debt. While the debt is in the Cross-Servicing Program, Treasury maintains the debt balance information, collects the funds paid by the debtor, and returns the funds to the creditor agency for proper deposit and accounting. The creditor agency must maintain its original debtor records and remains responsible for all financial reporting associated with the debt, to include IPA fees. IPA will continue to accrue on debts referred to Treasury's Cross-Servicing Program. The creditor agency is responsible for the accuracy of the debt information submitted to Treasury and must provide updates and corrections of debtor information on a regular basis.

E. Cross-Servicing Fees. Treasury charges fees to cover its costs for cross-servicing. The fee is a percentage of all collections received from the debtor after the debt is referred to cross-servicing. Pursuant to the TFM 4-4000, Treasury fees are added to the outstanding debt balance.

021103. TOP

A. General

1. TOP provides for the centralized administrative offset of Federal tax and non-tax payments payable to a debtor in order to collect a delinquent debt owed to the Government. Creditor agencies submit information about delinquent debts to Treasury, which maintains the information in a centralized database. Before Treasury disburses a payment, Treasury compares the payee information with the debtor information in the database. If a match occurs, the payment will be offset, in whole or part, to satisfy the debt.

2. Treasury determines how to apply collected funds to multiple debts. Treasury notifies the debtor, the creditor agency, and the paying agency when an offset occurs. Debtors must contact the creditor agency to resolve any issues related to the offset. At least 60 days before the debt is referred to Treasury, the DCO must have issued the debtor a debt notification meeting the requirements of paragraph 020505.

B. Debts Eligible for Referral to TOP. A debt that is delinquent and legally enforceable is eligible for referral to TOP. A debt is considered legally enforceable for TOP purposes if there has been a final agency determination that the debt is due, and there are no legal bars to collection through the offset of Federal payments.

C. Debts Not Eligible for Referral to TOP. An agency should not refer directly to TOP those debts that have been referred to Fiscal Service or another Treasury-designated debt collection center for cross-servicing, or to DOJ for litigation. Additionally, a debt is not eligible for referral to TOP if the debt:

1. Is owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in a bankruptcy proceeding;
2. Is owed by a Federal agency;
3. Is the subject of an administrative appeal, until the appeal is concluded, and the amount of the debt is fixed;
4. Is less than \$25 (including IPA charges); or
5. Is owed by a foreign entity.

D. TOP Fees. Treasury is authorized to charge fees to cover the costs of debt collection and administrative offset programs. Pursuant to TFM 4-4000, Treasury fees are added

to the outstanding debt balance. The fee is set annually, and Treasury deducts the fees from the amount offset before the residual amount is transmitted to the referring DCO.

E. Payments Eligible for Offset Under TOP

1. All Federal payments may be offset under TOP except as prohibited by law or exempted by action of the Treasury. This includes payments disbursed by Treasury, the DoD, U.S. Postal Service, and other Government disbursing agencies.

2. The following types of Federal payments are eligible for offset under TOP:

- a. IRS tax refunds;
- b. Retirement payments issued by OPM;
- c. Vendor payments;
- d. Federal salary payments;
- e. Travel advances and reimbursements;
- f. Certain Federal benefit payments, such as Social Security retirement and disability payments;
- g. Grant payments; and
- h. Active military and military retirement payments.

3. Federal law prohibits or limits the amount of offset for certain types of payments. For a complete list of payments that are exempt from offset under TOP, refer to [TOP Exemptions](#).

0212 REFERRAL TO PCA

021201. Authority to Use PCA

The DCMO is the designated DoD entity that may refer debts to PCAs.

021202. Contracts for PCA Services

In order to minimize collection costs and avoid duplication of efforts, the agency should refer debts to Treasury for cross-servicing in order to obtain the services of a PCA. However, under 31 U.S.C. § 3711 and the FCCS, an agency has the option of referring a debt directly to a PCA, and not through Treasury, pursuant to a contract between the agency and the PCA. To avoid double submission to the PCA when a debt is also transferred to Treasury, Treasury must be made

aware of the direct referral to the PCA. Agency contracts with PCAs to locate delinquent debtors and recover delinquent debts must define the services and must conform to the following terms.

A. The DCO will retain the final authority to resolve disputes, compromise debts, suspend or terminate collection activity, refer debts to credit bureaus, and refer debts to DOJ for litigation. If the debt was referred to the PCA as part of Treasury's Cross-Servicing Program, then Treasury will retain authority to compromise debts.

B. The PCA will not offer the debtor, as an incentive for repayment, the opportunity to pay the debt minus the PCA's fee, unless the PCA is granted authorization by the DoD in advance.

C. The PCA is subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. § 552a, and to any applicable Federal or state law pertaining to debt collection practices, including, but not limited to, the Fair Debt Collection Practices Act ([15 U.S.C. § 1692](#)) and the FCCS (as applicable to the agency).

D. The PCA is required to account for all amounts collected.

E. The PCA will comply with other requirements, as appropriate, with regard to locating and contacting debtors, accepting installment payments, processing late payment charges, and returning uncollectible debts to the referring DCO.

F. Debts referred to PCAs are not subject to the requirement to transfer debts to Treasury.

#### 021203. Funding PCA Contracts

Contracts with PCAs may be funded in accordance with [fixed fee or contingent fee contracts](#).

A. Fixed Fee. Payment to the PCA is a set fee determined without regard to the amount collected under the contract, but only to the extent that funds are made available in advance in appropriations; or

B. Contingent Fee. Payment to the PCA is based on a provision in the contract permitting the PCA to deduct a fee, consistent with prevailing commercial practice, based on a percentage of the amount collected under the contract.

### 0213 REFERRALS TO THE DOJ FOR LITIGATION

#### 021301. General

A. Unless an agency has specific statutory authority to litigate its own debts, an agency must refer debts to DOJ for litigation. Debts based on conduct in violation of antitrust laws or involving fraud, or the presentation of a false claim or misrepresentation on the part of the



debtor, [or any party having an interest in the claim](#), must be referred to DOJ for action. Before referring a debt to DOJ for litigation, the DCO should consult with its Office of General Counsel for guidance. Also, prior to referring a debt to DOJ for litigation, a DCO must take aggressive collection action in accordance with this chapter for legally enforceable debts and must ensure the debt cannot be compromised, suspended, or terminated.

B. If a DCO intends to refer a debt to the DOJ for litigation, debts with a principal amount over \$1,000,000, exclusive of IPA charges, should be referred to the responsible DOJ litigation division in Washington, D.C. Debts with a principal amount of \$1,000,000 or less, exclusive of IPA charges, should be referred to the DOJ's Nationwide Central Intake Facility as required by the Claims Collection Litigation Report (CCLR) instructions [and 31 CFR 902.1](#). DCOs must make every effort to refer delinquent debts to DOJ for litigation within the 6-year statute of limitations for initiating lawsuits against debtors, and within 1 year after a final decision has been rendered in an administrative proceeding. Refer to paragraph 020202 for additional guidance on the time limit for litigation of a debt.

C. The Defense Security Cooperation Agency (DSCA) will determine whether or not to forward a Foreign Military Sales (FMS) arrearage to DOJ for litigation. For guidance on referring FMS arrearage, refer to Chapter 6.

#### 021302. Minimum Amount for Referral

Generally, only non-fraud debts with a principal balance equal to or greater than \$2,500 are eligible for referral to DOJ. DCOs may refer debts under \$2,500, exclusive of IPA charges, to DOJ for acceptance under the following circumstances:

- A. To ensure compliance with policies or programs;
- B. To secure a judgment against the debtor that will be filed as a lien against the debtor's property pursuant to [28 U.S.C. § 3201](#), and returned to the referring office for enforcement; or
- C. [To obtain payment when](#) a debtor can pay the debt, and the Government effectively can enforce payment with due regard for the exemptions available to the debtor under Federal and state law and the judicial remedies available to the Government.

#### 021303. Notification to Debtor

Before referring a delinquent debt to DOJ for litigation, DCOs must ensure a debt notification letter as described in paragraph 020505 was issued to the debtor and the letter indicated that if the debt could not be collected using administrative procedures, litigation could result. DCOs must ensure a copy of the debt notification letter containing this notice is provided to DOJ when referring a debt for litigation.

## 021304. Contact With Debtor After Referral

Once a debt has been referred to DOJ for litigation, DCO personnel are required to refrain from contact with the debtor regarding the debt. DCOs must refer debtors with inquiries to the appropriate DOJ office. A DCO must notify DOJ immediately of any payments received on a debt referred to DOJ in accordance with DOJ guidance.

## 021305. Documentation of Debt for the DOJ

A. The DCO, or other applicable office, must submit debts to DOJ for litigation by using a CCLR and must include a signed Certificate of Indebtedness. The DCO must complete all sections of the CCLR appropriate to the indebtedness as required by the CCLR instructions, and furnish other information or documentation to DOJ as required. The CCLR must clearly indicate what actions are being requested of DOJ (i.e., enforced collection or judgment lien).

B. A blank CCLR and instructions for completion of the report are [with the DOJ](#). The DCO must forward the CCLR to Director, Commercial Litigation Branch, P.O. Box 875, Ben Franklin Station, Washington, D.C. 20044.

C. The CCLR must include a completed checklist or brief summary of actions taken by the DCO to collect or resolve the debt and an explanation for the omission of any administrative collection action required by the FCCS or this chapter. If the debtor's address is unknown, the DCO must include [any information required by DOJ, including](#) a list of the debtor's prior known addresses and an explanation of actions taken to locate the debtor. The debt referral must include the debtor's latest credit history data, such as a commercial credit report, balance sheet, or financial statement, and must provide a recommendation that will indicate whether there is reasonable prospect of enforcing debt collection.

D. The DCO may omit credit data from the CCLR if a debtor is bankrupt, in receivership, or if the debtor's liabilities are fully covered by insurance. If applicable, DCOs must include the identity and address of the insurer and the type and amount of insurance. Credit data also may be omitted if credit history is not available, such as for a state or local Government unit.

## 021306. Preservation of Evidence

The DCO must preserve all debt files and records that may be needed by DOJ to prove its case in court. DCOs should include certified copies of the documents that form the basis for the debt in the debt referral package submitted to DOJ and must provide originals of the documents if requested by DOJ.

## 021307. Discontinuation of DCO Actions

DOJ has exclusive jurisdiction over the debts referred to DOJ. DCOs will cease collection actions on debts referred to DOJ for litigation.

## 0214 DEBT COMPROMISE, SUSPENSION, AND TERMINATION

## 021401. General

A. Under 31 U.S.C. § 3711 and the FCCS, an agency maintains the authority to compromise, suspend, or terminate collection action. The DCO, DCMO, DMO, fund holder, or other entity involved in debt collection and management may prepare a request for compromise, suspension, or termination of collection action and submit it to the appropriate authority for approval. The approving authority may be DFAS, the DoD Component, DOJ, and/or Treasury depending on the amount of the debt. The referring office submitting the request must maintain supporting documentation pertaining to the request. A referring office may take no further action on debts referred for approval.

B. When a foreign entity owes the debt that is being considered for compromise, suspension, or termination, the following coordination policies apply.

1. The Accounts Receivable Office or the Foreign DMO must coordinate proposals to compromise, suspend, or terminate collection actions on all non-FMS foreign accounts receivable, regardless of the amount, with the applicable DoD Component fund holder.

2. DFAS Security Cooperation Accounting, in cooperation with the DoD Component, must coordinate proposals to compromise, suspend, or terminate collection actions on FMS arrearages with the DSCA.

## 021402. Determining Debt Amount for Compromise, Suspension, and Termination

The DCO, fund holder, or other entity involved in collection and management of the debt must determine the amount of the debt in order to submit it to the appropriate approval authority for compromise, suspension, or termination. Debts must not be subdivided in order to avoid approval requirements. The requesting entity must consider a debtor's liability arising from a particular transaction as a single debt when determining the amount for purposes of compromise, suspension, or termination approval. The dollar amount of the debt must be computed on a contract or transaction basis (for FMS debts, the Letter of Offer and Acceptance represents a transaction). The amount of the debt used as the basis includes only the principal amount of the debt then due and does not include IPA fees.

## 021403. Submission to the DOJ Using the CCLR

If compromise, suspension, or termination of collection action is appropriate, and the amount of the indebtedness is within DOJ's approval threshold level (as set forth in paragraphs 021404-021406), then DFAS or the DoD Component must refer such debts to DOJ using a CCLR. Include in the referral appropriate financial information and a recommendation for the acceptance of a compromise, suspension, or termination by DOJ. Refer to paragraph 021305 for guidance on preparation and submission of the CCLR.

## 021404. Compromise

A. General. Compromise is the acceptance of less than the full amount of the debt in satisfaction of the entire amount of the debt. The debtor is released from liability on the full amount of the debt if the compromise amount is paid in full. The debtor (or debtor's representative) should submit offers of compromise to the agency in writing and should include all additional information requested by the approval authority.

B. Approval Authorities. The approval authority for an offer of debtor compromise is based on the principal amount of the debt less any IPA costs and partial payments or collection.

1. Less Than or Equal to \$100,000 – Debt With DFAS. DFAS has authority to approve compromises for debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate a compromise approval with the fund holder.

2. Less Than or Equal to \$100,000 – Debt With DoD Component. DoD Components have authority to approve compromises for debts not referred to DFAS when the principal amount does not exceed \$100,000.

3. Over \$100,000 – Debt is Not With Treasury. DOJ has authority to compromise debts when the principal amount exceeds \$100,000, and the debt has not been referred to the Treasury Cross-Servicing Program. DOJ also [maintains](#) authority to compromise all debts greater than \$500,000. Only DOJ can consider noncash compromise offers for debts exceeding \$100,000. The DoD does not require DOJ approval to reject a compromise offer.

4. Less Than or Equal to \$500,000 – Debt With Treasury. Treasury has authority to approve compromises for debts, which have been referred for cross-servicing, when the principal amount of the debt is less than or equal to \$500,000. DOJ maintains authority to compromise all debts greater than \$500,000.

5. Debts in Litigation. DFAS and DoD Components cannot approve a compromise on a debt referred to DOJ for litigation unless the debt is returned to the DoD for disposition.

C. DOJ Review of Compromise Offers Less Than or Equal to \$100,000. If DFAS or the DoD Component is uncertain whether to accept a firm, written substantive compromise offer on a debt within its delegated compromise authority of \$100,000 or less, they may refer the offer to DOJ using a CCLR and copies of supporting data. DOJ may act upon the offer or return it with instructions or advice.

D. Reasons for Compromise. When assessing the merits of a compromise proposal from a debtor, DCOs must obtain a current financial statement from the debtor, executed under penalty of perjury pursuant to [31 CFR 902.2\(g\)](#), and a credit report or other financial

information to aid in evaluating the debtor's assets, liabilities, income, and expenses. Possible grounds for compromise include the following:

1. Compromise Because of Litigation Risks. Compromise may be appropriate if there is significant doubt concerning the Government's ability to prove its case in court. The amount accepted in a compromise agreement should reflect such factors as the complexity of the legal issues, the probability of a bona fide dispute as to the facts, the availability of witnesses and supporting evidence, and the probability of successful prosecution. In determining the litigation risks involved, DFAS or the DoD Component must consult with agency counsel to consider the probable amount of court costs and attorney fees that may be imposed against the Government if litigation is unsuccessful.

2. Compromise Because of Debtor Inability to Pay Full Amount. Compromise of a debt may be appropriate if the debtor is unable to pay the full amount due in a reasonable time, or if the DCO cannot collect the full amount in a reasonable time using enforced collection. The compromise amount should bear a reasonable relation to the amount that can be recovered by enforced collection procedures, while considering any exemptions that may be available to the debtor and the time the collection will take. DFAS or DoD Components must consider, as a minimum, the following factors in determining a debtor's ability to pay the full amount of the debt:

- a. Current financial statement from the debtor, executed under penalty of perjury pursuant to 31 CFR 902.2;
- b. Credit reports and other financial information;
- c. Debtor's age and health;
- d. Debtor's present and potential income;
- e. Debtor's inheritance prospects;
- f. The possibility that assets have been concealed or improperly transferred by the debtor; and
- g. The availability of assets or income that may be realized by enforced collection proceedings.

3. Compromise Where Collection Costs Exceed Amounts Recoverable or Collection is not Anticipated. Compromise may be appropriate if the cost of collection does not justify the costs of pursuing enforced collection of the full amount. Collection costs may be a substantial factor in the compromise of smaller debts. An amount accepted in compromise may reflect a discount for the administrative and litigation costs of collection, along with consideration for the time involved to perform collection. In determining whether the cost of collection justifies enforced collection of the full amount, DFAS or the DoD Component must consider whether

continued collection of the debt, regardless of cost, is necessary to further an enforcing principle, such as the willingness to aggressively pursue defaulting or uncooperative debtors.

E. Compromise with Joint and Several Liability. When two or more debtors are jointly and severally liable, collection against all debtors should be pursued, as appropriate. DFAS or the DoD Component may not allocate the payment of a debt between debtors and must proceed to liquidate the debt as quickly as possible. A compromise agreement with one debtor will not release the indebtedness of remaining debtors. A DCO must not consider compromise with one debtor as a precedent or as binding when determining the amount that would be required from other jointly or severally liable debtors.

F. Compromises Payable in Installments. Installment payment of compromised debts generally should not be accepted due to the administrative expense and time required for the full collection of the debt. If installment payment of a compromise is necessary, DFAS or the DoD Component must obtain a legally enforceable written agreement that stipulates immediate payment of the original debt, minus sums already paid, in the event of default. Whenever possible, the DCO should obtain a security for installment repayment agreements.

G. Enforcement. Statutory penalties, forfeitures, or debts established as an aid to enforcement and to compel compliance may be compromised as long as it does not harm present or future standards for enforcement, deterrence, or compliance.

H. Tax Consequences to the U.S. Government. In negotiating a compromise, DFAS or the DoD Component must consider the tax consequences to the Government and any inappropriate tax consequences for the debtor. The agency may consider requiring a waiver of tax loss carry-forward and tax loss carry-back rights of the debtor in the compromise agreement, as stated under [31 CFR 902.6](#). See [31 CFR 903.5](#) for reporting the discharge of an indebtedness to the IRS.

I. Mutual Releases of the Debtor and the Government. In appropriate circumstances, DFAS or the DoD Component may implement an accepted compromise in the form of a mutual release. In a mutual release, the debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromised amount. The Government and its officials, past and present, are released and discharged from any and all claims the debtor may have against them arising from the same transaction. In the event a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to the transaction giving rise to the compromised debt. Sample mutual release language is as follows:

Consideration and Release of Claims Against the Department of Defense (DoD), the Creditor Agency, and the United States and Debtor. In consideration of DoD's obligations under the agreement to compromise the debt, the Debtor hereby releases DoD, the Creditor Agency, and the United States from any and all claims arising prior to the execution of this agreement and arising out of, or related to, the receivables. This shall in no way be deemed an admission of liability by the DoD,

the Creditor Agency, or the United States or an admission of the existence of any claims against the DoD, the Creditor Agency, or the United States. The debtor is hereby released from further non-tax liability on the compromised debt in consideration of payment in full of the compromised amount. This release shall survive any termination of the agreement.

\*021405. Suspension of Collection Action

A. General

Pursuant to [31 CFR 903](#), suspension of collection action is a determination by the agency to temporarily cease collection action.

B. Approval Authority

1. Less Than or Equal to \$100,000 – Debt With DFAS. DFAS has authority to suspend collection on debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate suspension approval with the fund holder.

2. Less Than or Equal to \$100,000 – Debt With DoD Component. DoD Components have authority to suspend collection action on debts that have not been referred to DFAS when the principal amount does not exceed \$100,000.

3. Over \$100,000 – Debt is Not With Treasury. DOJ has authority to suspend collection action on debts when the principal amount exceeds \$100,000, and the debt is not being serviced by the Treasury Cross-Servicing Program. DOJ also has authority to suspend collection action on all debts greater than \$500,000.

4. Less Than or Equal to \$500,000 – Debt With Treasury. Treasury has authority to suspend collection action on debts, which have been referred for cross-servicing, when the principal amount of the debt is less than or equal to \$500,000. DOJ maintains authority to suspend all debts greater than \$500,000.

C. When Suspension Should Be Considered. The DCO may suspend collection action, subject to the dollar limits stated in [subparagraph 021405.B](#), under the following conditions.

1. Location of Debtor Unknown. The debtor cannot be located.

2. Financial Condition. The debtor's financial condition is not currently conducive to repayment, but it is expected to improve. Based on the current financial condition of the debtor, collection activity may be suspended when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:



a. Enforced collection **will not be** barred by **the** applicable statute of limitations;

b. Future collection can be made using administrative offset; or

c. The debtor agrees to pay interest on the suspended debt amount, and the suspension is likely to enhance the debtor's ability to pay the full debt principal amount at a later date with interest.

\* 3. Waiver, Remission, or Review. In most circumstances, the application for waiver or remission does not delay the collection of a debt. Generally, debt collection is delayed while a review is pending. In some circumstances, the formal suspension of a debt under 31 CFR 903 may be appropriate when a debtor requests a waiver, remission, or review of the debt (to include the timely filing of a hearing petition). The DCO may also suspend contract debts if a contractor's request for deferment is approved. Refer to Chapter 5 for guidance on contract debt deferments. Suspension of collection activity is not appropriate if the request for waiver, remission, or review/hearing is frivolous or made primarily to delay collection. Collection activity may be suspended during the time required for consideration of the debtor's good faith request for waiver, remission, or review/hearing of the debt if any of the following factors apply:

a. The statute under which the request is sought prohibits collection activity during that time;

b. The amount collected during that time cannot be refunded under the applicable statute;

c. There is reasonable possibility the debtor will prevail;

d. There is reasonable assurance the debt could be collected if the debtor does not prevail; or

e. Collection of debt would cause undue hardship.

4. Deceased Active Duty Service Members. Under 31 U.S.C. § 3711(f)(1), the Secretary of Defense may suspend the collection of a claim against the estate of a Service member who died while on active duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy.

5. Bankruptcy. When a bankruptcy petition has been filed with respect to a debtor, collection activity on a debt must be suspended pursuant to 11 U.S.C. § 362, 1201, or 1301, unless it can be clearly established that the automatic stay has been lifted or no longer is in effect. With the coordination and assistance of the supporting legal office, DCOs must take action to prevent disbursement of funds to the debtor until relief from the automatic stay is obtained.

6. Debts in Litigation. The DCO must suspend collection if the debt is being referred to DOJ for litigation.



D. Suspending Collection of Debts of Wounded or Injured Service Members. In accordance with 37 U.S.C. § 1007(c)(4), if a Service member, through no fault of his or her own, incurs a wound, injury, or illness while in the line of duty in a combat operation or combat zone designated by the President or the Secretary of Defense and is overpaid pay or allowances while recovering from the wound, injury, or illness, then the DCO may not collect the overpayment from the Service member's pay until the criteria listed in Chapter 3, subparagraph 030305.C are met.

E. Delay of Collection Action for Service Members. In accordance with 37 U.S.C. § 1007(c)(3)(B), Service members subject to deductions from pay under that section may request a delay in the start of the repayment requirement to recover the indebtedness. Before beginning salary offset, the DCO will consider the reasons provided by the Service member for the requested delay, including the financial ability of the Service member to repay the indebtedness and the hardship that immediate collection would impose on the Service member and his or her dependents.

021406. Termination of Collection Action

A. General

1. Termination of collection action is a determination to cease active collection because such action is not economically worthwhile or is otherwise inappropriate. Before terminating collection, the agency should have pursued all appropriate means of collection and determined the debt is uncollectible.

2. Termination ceases active collection, but an agency may still pursue passive collection action (for example, when the debt remains secured by a judgment lien or lien interest, or is being collected through TOP). Termination results in the removal of the debt from the active collection files. Termination does not preclude the agency from retaining a record of the account for the reasons under subparagraph 021406.D. Refer to subparagraph 021406.C.8 for termination of debts discharged in bankruptcy proceedings. Refer to Volume 4, Chapter 3 for guidance on writing off debts upon termination of active collection.

B. Approval Authorities

1. Less Than or Equal to \$100,000 – Debt With DFAS. DFAS has authority to terminate collection action on debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate with the fund holder.

2. Less Than or Equal to \$100,000 – Debt With DoD Component. DoD Components have authority to terminate collection action on debts that have not been referred to DFAS when the principal amount does not exceed \$100,000.

3. Over \$100,000 – Debt is Not With Treasury. DOJ has authority to terminate collection action on debts when the principal amount exceeds \$100,000, and the debt is

not being serviced by the Treasury Cross-Servicing Program and also has approval to terminate collection action on all debts with a principal amount greater than \$500,000.

4. Less Than or Equal to \$500,000 – Debt With Treasury. Treasury has authority to terminate collection action on debts, which have been referred for cross-servicing, when the principal amount of the debt is less than or equal to \$500,000. DOJ maintains authority to terminate all debts greater than \$500,000.

C. Reasons to Terminate Collection Action. Active collection of a debt may be terminated after all appropriate means of collection have been pursued, and a determination is made, based upon the results of collection activity, that the debt cannot be collected. The DCO may terminate collection activity under the following conditions:

1. No substantial amount can be collected using all tools available;
2. The debtor cannot be located;
3. Costs of collection are anticipated to exceed amounts recoverable;
4. The debt is subsequently found to be plainly erroneous or legally without merit;
5. Enforced collection is barred by any applicable statute of limitations;
6. Documentation indicates further collection action would be futile;
7. Subsequent to the establishment, the debt cannot be substantiated;
8. The debt has been discharged in bankruptcy. Additional guidance on termination of debts discharged in bankruptcy is found at section 0215; or
9. The Active Duty Service member is deceased. Under 31 U.S.C. § 3711(f)(1), the Secretary of Defense may terminate collection of a claim against the estate of a Service member who died while on active duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy.

D. Record of Terminated Accounts. Although a debt may be terminated for collection activity, DFAS or the DoD Component must retain a record of the debt for the purposes of:

1. Selling the debt, if Treasury determines the sale is in the best interest of the United States;
2. Pursuing collection activity at a later date in case there is a change in the debtor's status or a new collection tool becomes available;

3. Offsetting against future income or assets not available at the time of termination of collection activity; or

4. Screening future applicants for prior indebtedness.

E. Exception to Termination. When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, debts may be referred to DOJ for litigation, even though termination of collection action otherwise might be appropriate.

F. Write-off and Close-out of Debt. Write-off is mandatory for public delinquent debt that has not been collected within 2 years of delinquency, unless documented and justified to the Office of Management and Budget in consultation with the Treasury. Write-off procedures are also necessary for debts that are below the break-even threshold. Refer to Volume 4, Chapter 3 for guidance on write-off and close-out of receivables.

#### 021407. Debts Involving Violation of Antitrust Laws or Fraud

The policy and requirements in this chapter relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of the antitrust laws. The policy and requirements also do not apply to any debt involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the debt. Only the DOJ has the authority to compromise, suspend, or terminate collection activity on such debts. Upon identification of a debt meeting these criteria, DCOs must promptly refer the debt to DOJ for action. DOJ may return the debt to the DCO for further handling.

#### 0215 DEBTORS INVOLVED IN BANKRUPTCY PROCEEDINGS

If the DCO learns that a bankruptcy petition has been filed by a debtor, the DCO must take immediate action to ensure the prompt termination of debt collection or processing of bankruptcy orders by referring to the following instructions.

A. Active Duty and Reserve Members. If an active duty or reserve member who owes a debt to the DoD files for bankruptcy, the DCO must refer to the instructions in Volume 7A, Chapter 50.

B. Military Retirees. If a military retiree who owes a debt to the DoD files for bankruptcy, the DCO must refer to the instructions in Volume 7B, Chapter 17.

C. Federal Civilian Employees. If a Federal civilian employee who owes a debt to the DoD files for bankruptcy, the DCO must refer to Volume 8, Chapter 8.

D. Commercial Entities. If a DoD vendor or contractor files for bankruptcy, the DCO must refer to Chapter 5, section 0508.

## 0216 BREAK-EVEN ANALYSIS

## 021601. Extent of Collection Efforts for Domestic Debts

A. General. Except for debts of foreign countries, debt accounting and collection procedures must be designed to provide information to assist in determining realistic points of diminishing returns beyond which collection efforts are not justified, and the minimum amount of a debt when no collection action at all should be undertaken. The procedures must capture the total cost of the debt collection process (both direct and indirect costs) by dollar range of debt and the total number of cases processed. Until the DCO accumulates actual cost data, it may develop cost analysis techniques for use in determining the unit cost of processing first debt notices and all other follow-up actions. When estimating costs, update the estimates periodically or when circumstances and conditions change significantly. Standardize, document, and retain the methodology utilized to estimate costs.

B. Comparison Requirements. As needed, the DCMO and DMO will make at least an annual comparison of costs incurred against amounts collected in its debt collection process to assist in the establishment of reasonable points at which the cost of further collection efforts are likely to exceed recovery. This cost comparison, however, represents but one appraisal element to consider in the analysis of when and where to terminate collection efforts. Other reviews concerning the type of debt, size, and age statistical analysis will also be performed before a final point of termination of collection action is determined. The DCO should consider the following definitions when making cost comparisons, reviews, and analysis.

1. The Debt Collection Process. The debt collection process includes:
  - a. The preparation of the first debt notice;
  - b. All follow-up actions, such as answering rebuttals, processing requests for waiver or remission, holding hearings, negotiating compromises, handling installment contracts and suspenses, processing collections, and making referrals to credit reporting and collection agencies; and
  - c. The completion of the case, including maintaining the case file information until the appropriate statute of limitations expires.
2. Direct Cost. Direct cost includes any cost identified specifically with handling cases or accounts during the debt collection process. These costs normally consist of personnel costs, computer equipment costs, supplies, postage, and contract services.
3. Indirect Cost. Indirect cost includes any cost identified with the debt collection process, but which benefits that process and at least one other activity. Accumulate these costs only when they are expected to exceed 20 percent of the direct costs.

4. Cases Processed. The term cases processed refers to the number of cases completed or closed during the year, either by collection or write-off. Collection includes compromises and offsets from other Federal government payments.

021602. Break-Even Analysis Format

A break-even analysis is one method of determining realistic points at which further collection efforts are not justified. Refer to Table 2-1 for a break-even analysis format and instructions.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances

(1)

(2)

Dear (3):

This is to inform you that you were overpaid for pay periods ending (4), through (4). The gross amount of your overpayment (including pay, taxes, benefits and other deductions) is \$ (5). The Defense Finance and Accounting Service (DFAS) has adjusted your debt for any previous payments made and offsets taken and has determined that the net amount of the debt currently owed by you is \$ (6). The overpayment is a result of (7). The payment was incorrect because (8). Your account was audited and the attached debt worksheet contains information detailing the overpayment.

**Payment of Your Debt.** Please pay the debt in full by (9), which is (10) days from the date of this letter. Your check or money order should be made payable to Treasury in the amount of \$ (6). Please send your payment to DFAS-CL, ATTN: J3DCBB/555, 1240 E. 9<sup>th</sup> St., Cleveland, OH 44199-2056. If you are unable to pay the debt in one lump sum, you may agree in writing to pay the debt in regular installments by completing the enclosed Voluntary Repayment Agreement and mailing or faxing it to the address listed on the Agreement.

**If You are Unable to Pay Your Debt.** If you do not repay the debt in full, or do not submit a Voluntary Repayment Agreement (enclosed) within (10) days from the date of this letter, DFAS must collect the debt using other collection procedures. Beginning on (11), DFAS will initiate collection of the debt involuntarily from your pay by using salary offset procedures (payroll deductions). A maximum of 15 percent of your net disposable pay will be deducted each pay period until your debt is paid in full. The salary offset amount may fluctuate each pay period depending on your available net disposable pay. DFAS estimates that based on your current payroll information, your available disposable pay is \$ (12), and 15 percent of your disposable pay is (13). Repayment of the principal amount of your debt would be completed in approximately (14) pay periods. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump-sum payments) may be applied to pay off your debt. If you file for bankruptcy, you must notify DFAS as soon as possible.

**Opportunities Available to You.** If appropriate, you may contact your timekeeper to make time and attendance corrections, or your personnel office to make pay or allowance changes. You may inspect and/or receive copies of DFAS records related to your debt by contacting DFAS at the address listed above. If appropriate, you may request a hearing (see the enclosed instructions on "Requesting a Hearing"). You can find additional information on hearings and/or waivers at [www.dfas.mil/civilianemployees/debt](http://www.dfas.mil/civilianemployees/debt). If you do not wish to dispute the validity or amount of the debt, you are entitled to request a waiver of your debt (see the enclosed instructions on "Requesting a Waiver"). DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived or found not owed to the United States.

**Questions about Your Debt.** Please see the enclosed "Collection of Your Debt" for additional information regarding debt collection. The Department of Defense Financial Management Regulation (DoD FMR) contains general information concerning debt collection authority at Volume 16, Chapters 1-4 and is available at <http://comptroller.defense.gov/fmr.aspx>.

You may contact your Personnel Office or Customer Service Representative (CSR) if you have questions regarding your debt. If you have further questions about your debt, your CSR may initiate a Remedy inquiry to request information from DFAS, or you may contact the DFAS Civilian Payroll Office at 1-800-538-9043. You may also write to the DFAS Civilian Payroll Office at the address listed on this letter.

Sincerely,

SIGNATURE

(15)

Supervisor, Debt Processing Branch

(16)

Enclosures:  
As stated

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances  
(Continued)

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 Please remit with payment:  
 Name \_\_\_\_\_ SSN \_\_\_\_\_ DB \_\_\_\_\_  
 PayBlk \_\_\_\_\_ Code \_\_\_\_\_ Debt Dates \_\_\_\_\_  
 Debt Type \_\_\_\_\_ Creation Date \_\_\_\_\_ Sequence Number \_\_\_\_\_  
 Line of Accounting \_\_\_\_\_  
 Payment Amount Enclosed \$ \_\_\_\_\_

**Explanation of Blank Spaces on Sample Debt Notification**

- (1) The title or office symbol/code of the civilian payroll office issuing the debt notification
- (2) The full name and mailing address of the debtor
- (3) Last name of debtor with proper title (Mr. or Ms.)
- (4) The pay period(s) that the overpayment occurred
- (5) The gross dollar amount of the overpayment
- (6) The net dollar amount of the overpayment
- (7) Reason for Indebtedness - A brief explanation of how the overpayment occurred (e.g., time and attendance or a personnel change)
- (8) Explanation citing applicable law or DoD FMR provision, if applicable
- (9) The date by which the debtor must pay the debt in full or submit a request for a voluntary repayment agreement, usually 30 days from the date the letter is issued
- (10) The total number of days the debtor has to pay the debt in full or submit a voluntary repayment agreement, usually this number is "30"
- (11) The date the involuntary deduction from pay begins
- (12) The estimated amount of disposable pay
- (13) Fifteen percent of the disposable pay amount shown in item (12)
- (14) Divide amount shown in (6) by the amount determined in (13) and round to the next highest number. This will be the approximate number of pay periods needed to collect the overpayment in full
- (15) Identify by name, the signatory for the letter
- (16) The Debt Notification must include all enclosures (Enclosure 1, "Collection of Your Debt") (Enclosure 2, "Requesting a Hearing") (Enclosure 3, "Requesting a Waiver") (Enclosure 4, "Sample Voluntary Repayment Agreement" [for Civilian Payroll Indebtedness](#))



Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances  
(Continued)

### COLLECTION OF YOUR DEBT

Please be aware of the following additional information concerning the collection of your debt:

**Interest and Additional Charges.** If you are unable to pay the debt in full by 30 days from the date of this notification, any unpaid portion of the debt will be considered delinquent. DFAS is authorized by law to add interest, penalties, and administrative costs to your debt if it is not paid within 30 days from the date of this letter. The rate of interest charged is at the U.S. Treasury Tax and Loan Rate and may commence on the date your debt becomes delinquent and may continue until the debt is paid in full. Additional penalties may be imposed at the rate of up to 6 percent a year, as well as administrative charges, on any unpaid portion of your debt that is delinquent for more than 90 days, commencing on the date your debt becomes delinquent and continuing until the debt is paid in full.

**Collection Action on Delinquent Debts.** If DFAS is unable to collect your debt by salary offset, DFAS may enforce repayment of your debt by using other available collection remedies such as referring your debt to a private collection agency, reporting your debt to a credit bureau, garnishing your non-Federal employment wages, or referring your debt to the U.S. Department of Justice for litigation. Debts delinquent for more than 120 days are transferred to the U.S. Department of Treasury (Treasury) for collection, and may be transferred sooner than 120 days. Treasury may offset your Federal income tax refunds or other Federal benefit payments, such as Social Security and Federal employee retirement benefits, in order to collect your debt. You may also be prohibited from being approved for a Federal loan if you do not resolve your outstanding delinquent debt.

**Collection of Federal Employee Health Benefit (FEHB) Premiums.** Your debt may be the result of an advance in salary you received when you were on leave without pay status (LWOP) or when your pay was insufficient to cover your share of your FEHB premiums. When you return to employment, or upon your pay becoming sufficient to cover the premiums, you are required to reimburse your employer for the premiums paid on your behalf. If you pay your debt with after-tax dollars using a personal check, the payment will not be subject to pre-tax treatment that would reduce your taxable income. In order to ensure the repayment will be treated on a pre-tax basis, you must select payroll deduction as your repayment method. Pursuant to OPM regulations under 5 CFR 890.502, the “catch-up” option for repaying your FEHB premiums may not be paid pursuant to a Voluntary Repayment Agreement. Premiums must be collected back each pay period at the rate your employer paid the premium for you.

**Penalties for False or Frivolous Statements.** Please be advised that if you make or provide any knowingly false or frivolous statement, representations or evidence with respect to your debt, you may be liable for penalties under the False Claims Act (31 U.S.C. § 3729-3733) or other applicable statutes, and/or criminal penalties under 18 U.S.C. § 286, 287, 1001, and 1002, and other applicable statutes. A Federal employee may also be subject to disciplinary procedures under 5 U.S.C. Chapter 75 or any other applicable statutes or regulations.

**Tax Considerations.** Per Internal Revenue Service (IRS) Publication 15, income tax withheld by DFAS in a prior calendar year cannot be adjusted. Therefore, if your overpayment occurred in a prior calendar year, you must pay back the gross amount of your debt, including any taxes previously withheld and paid on your behalf to the IRS. You may be entitled to a deduction (or credit in some cases) for the repaid wages on your income tax return for the year of repayment of your debt. If your overpayment and repayment both occur in the same calendar year, DFAS will be able to adjust your tax withholding and you will be responsible for repaying only the net overpaid amount. Upon repayment in the same calendar year, your W-2 will be adjusted to reflect your income and the associated taxes. Finally, please be aware that should your debt repayment ever become delinquent and collected by the offset of your tax refund, your spouse may file Form 8379, Injured Spouse Allocation, with the IRS to claim his or her share of the tax refund.

**Bankruptcy.** If you file for bankruptcy, you must notify DFAS as soon as possible.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances  
(Continued)

### REQUESTING A HEARING

You may request a hearing to contest the validity of your debt or the amount of your debt. If your debt will be collected by involuntary salary offset (other than pursuant to a Voluntary Repayment Agreement), you may also request a hearing to contest the terms of the involuntary salary offset schedule.

**Is a hearing always the first step?** No. Your Personnel Office or your Customer Service Representative may answer general questions about your debt. If you request a hearing, DFAS will first perform an informal reexamination (“reconsideration”) of your pay records to validate the amount of debt you owe. DFAS will perform the reconsideration and issue written results to you. Reconsideration is an informal review performed to satisfy any doubts you may have regarding the amount or validity of your debt. A reconsideration is not a formal hearing. After considering the results of the reconsideration, you may decide not to proceed with the formal hearing process. To continue with a formal hearing, you must notify DFAS of your intent in a timely manner as noted below.

**What happens during the hearing process?** If you file a petition for a hearing in a timely manner, a hearing official will make a written determination regarding the validity or the amount of your debt, or will make a ruling on the proposed involuntary repayment schedule. The hearing official will consider any written statements and/or documentary evidence you submit, as well as internal agency debt files. You are entitled to a “Paper Hearing” wherein the hearing official makes a determination based on a review of the documents only, without the parties present. Rarely is an oral hearing granted and only if DFAS determines that the matter cannot be resolved by a review of the documents alone. You will receive a written decision within 60 days after filing your petition, unless the hearing official grants a delay. Collection of your debt, and any interest and penalty charges, will be suspended until the hearing official issues a written decision.

**Is there a time limit for requesting a hearing?** You must file a petition for a hearing within 30 days from the date of the attached debt notification letter (extended to 45 days if outside the Continental United States). If you requested records related to your debt, you must file a petition for a hearing within 45 days after the date the records are distributed. If DFAS performs a reconsideration of your debt (as explained above) and you wish to proceed with a formal hearing, you must notify DFAS within the time limit stated in the written reconsideration results you received.

**What must be included in a hearing petition?** Your written hearing petition must contain the following:

- Your name, daytime phone number, email address, mailing address and social security number.
- The reason for your hearing request, presented as follows:

**1) To Contest the Validity of Your Debt or the Amount of Your Debt:** Provide a statement concerning why you believe the debt (or the amount of the debt) is erroneous. To support your argument, include a written summary of the facts of your case for the hearing official. Include the date and manner in which you became aware of any overpayment. Include all documentary evidence you want the hearing official to review (such as Leave and Earning Statements (LES)). Include the written testimony of any witness you wish the hearing official to consider.

**2) To Contest the Proposed Schedule for Collection of Your Debt by Involuntary Salary Offset:** Provide an alternate payment schedule and a statement explaining your financial status. Provide copies of records to be considered by the hearing official.

- **Sign and date your hearing petition and include your Social Security number. Identify your submission as “HEARING PETITION”**

**Where do I file a hearing petition?** Fax your signed hearing petition and documentary evidence to 1-866-401-5849. If your hearing petition is missing information, you will receive a request to submit additional information. Failure to submit the additional information within 30 business days of notification will result in your hearing petition being dismissed. Alternatively, you may mail your hearing request and documentary evidence to DFAS Civilian Pay-IN, Dept. 6200, 8899 East 56<sup>th</sup> St., Indianapolis, IN 46249-1900.

**Where do I find additional information?** See DoD FMR Volume 16, Chapter 4.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

### REQUESTING A WAIVER

**What is a waiver?** Under 5 U.S.C. § 5584, the United States may waive its right to collect the debt you owe if collection would be against equity and good conscience and not in the best interest of the United States. The debt must be the result of an erroneous payment of pay or allowances (including travel, transportation, or relocation expenses and allowances). A debt may be waived in whole or in part. Collection of your debt generally will not be suspended during the waiver review process.

**May I apply for a waiver and simultaneously request a hearing?** No. By submitting an application for a waiver, you acknowledge that you do not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of your debt. If your waiver application includes arguments concerning the validity or amount of your debt, your application may be denied. In order to contest the validity or amount of your debt, you must file a petition for a hearing.

**Is there a time limit for filing a waiver application?** You must file a waiver application within 3 years after the erroneous payment was discovered.

### **What must be included in a waiver application and where should the application be submitted?**

#### **DD Form 2789:**

You must complete and sign DD Form 2789, "Waiver/Remission of Indebtedness Application," available at: <http://www.dtic.mil/whs/directives/forms/eforms/dd2789.pdf>. Send the application and all supporting documents to the address in your debt letter. If your waiver application is missing information, you will receive a request to submit additional information. Failure to submit the additional information within 30 business days of notification will result in your request for waiver being closed with no action.

#### **Supporting Documents:**

You must include supporting documents with your waiver application. Supporting documents include, but are not limited to:

- Copies of all supporting documentation referred to in DD Form 2789.
- Copies of Leave and Earnings Statements (LESSs) covering 3 pay periods prior to the overpayment(s) through 3 pay periods after the overpayment ended. If you do not have access to your LESSs, you must include a statement explaining why the LESSs are not available.
- Copies of Standard Forms (SF) 50s, "Notification of Personnel Action", for the debt period (including corrections). If unavailable, include a statement from the personnel office indicating why they are not available.
- Any statement from you or any other persons in support of your application. Statements must be attested to be true and correct to the best of the individual's knowledge and belief.

· Additional required documents by type of debt:

Personnel Debts: any job offer letter/email (if applicable).

FEHB Debts: SF-2809/SF-2810 (copy of your original enrollment form and any amendments).

FEGLI Debts: SF-2817 (copy of your original enrollment form and any amendments).

Awards and Bonus Debts: Signed agreements or contracts for bonuses and/or Voluntary Separation Incentive Program payments.

Foreign Entitlement Debts: SF-1190 (signed by an official) and Military Orders (if applicable).

Time and Attendance Debts: Time and Attendance cards for debt period.

**Where Do I Find Additional Information?** See DoD FMR Volume 16, Chapter 4.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

<b><u>Sample Voluntary Repayment Agreement for Civilian Payroll Indebtedness</u></b>	
<b><u>Debt Information:</u></b>	
Employee's Name _____ SSN: _____ Pay Blk: _____	
Debt Reason: _____	
Sequence Number: _____	
Amount Owed: _____	
Estimated Disposable Net Amount: _____	
Estimated Deduction Amount 15% of net disposable per pay period: _____	
Code: _____ Debt Dates: _____ through _____ Creation Date: _____	
LOA: _____	
<p><b><u>Acknowledgement.</u></b> I acknowledge that I owe the total amount indicated above due to a salary overpayment and that I am obligated to repay the debt to the United States. I understand that in the event I take no further action, 15 percent of my disposable pay will be deducted automatically beginning with the pay period stated above.</p>	
<p><b><u>Interest.</u></b> I also understand that if I decide to repay the amount owed by any method other than in a single lump-sum payment, interest at the Treasury Tax and Loan rate may be charged on the unpaid balance every month until the debt is paid in full.</p>	
<p><b><u>Payment Obligation.</u></b> I agree to repay the debt in the manner I have indicated below. Please choose one of the following repayment plans (check one):</p>	
<p>___ <b><u>Payment in Full by Check.</u></b> I will repay my debt in a lump sum by check. My payment in the amount of \$_____ is enclosed. Make check payable to <b>Treasury</b> and mail to DFAS-CL, ATTN: J3DCBB/555, 1240 E. 9<sup>th</sup> St., CLEVELAND, OH 44199-2059 and fax this form to (317) 275-0354 (DSN 366-0354) or (866) 401-5849.</p>	
<p>___ <b><u>Payment by Salary Offset.</u></b> I will repay my debt by having the payment offset from my salary. DFAS will accept the total payment amount as full and final payment of the debt, payable as follows (check one):</p>	
<p>___ <b><u>Single Payment.</u></b> I wish to pay the total amount of the debt by salary offset in one payment. Please deduct the total amount of the debt from my salary on pay period ending _____.</p>	
<p>___ <b><u>Multiple Payments at 15% of Disposable Pay.</u></b> I do not want to pay the debt all at once. I authorize DFAS to deduct the amount listed above (estimated to be 15% of my disposable pay per pay period) until the debt is paid in full.</p>	
<p>___ <b><u>Multiple Payments at More than 15% of Disposable Pay.</u></b> I do not want to pay the debt all at once. I authorize DFAS to deduct \$_____ each pay period, which is more than 15% of my disposable pay, until the debt is paid in full.</p>	
<p>___ <b><u>Multiple Payments at Less than 15% of Disposable Pay.</u></b> Payment at the rate of 15% of my disposable pay would result in an extreme financial hardship for me. I authorize DFAS to deduct \$_____ each pay period. This repayment amount has been approved by my employing agency (**Signature of agency approving official/supervisor is required below). In determining your proposed repayment amount, please be advised your debt should be repaid within 3 years, divide the amount due by 78 to determine the lowest bi-weekly payment; minimum payment amount is \$25 per pay period. You may be required to submit financial statements annually whenever your repayment period exceeds 3 years.</p>	

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

**In the Event of Default.** In the event I default on my obligation under this agreement, DFAS is entitled to terminate this agreement without notice. Upon termination, DFAS will retain all amounts paid. Any unpaid balance of the debt will be automatically reinstated and shall become immediately due and payable pursuant to law. DFAS is entitled to take any lawful action it deems appropriate to collect the debt without duplicating notices and opportunities for review previously provided to me, whether before or after the date of this agreement.

**I have read and fully understand and agree to the terms of this agreement.**

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Daytime Telephone Number: \_\_\_\_\_

**\*\*Approving Official/Supervisor/Budget Representative (for Department of Defense Education Activity Employees)**  
Signature (when required):

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date: \_\_\_\_\_

Printed Name

**Submitting Your Signed Agreement.** Please sign and return this repayment agreement to your payroll office. Alternatively, you may submit your signed agreement by FAX to (317) 275-0354 (DSN 366-0354) or (866) 401-5849, or by mail to DFAS-IN Dept. 6200 Civilian Pay, 8899 East 56<sup>th</sup> Street, Indianapolis, IN 46249-1900.

**Rejection of an Unacceptable Agreement by DFAS.** DFAS maintains the discretion to reject an unacceptable proposed repayment agreement and proceed with collection by salary offset. DFAS will notify the employee in writing in the event the repayment plan submitted by the employee is unacceptable.

THIS REPORT CONTAINS INFORMATION SUBJECT TO THE PRIVACY ACT OF 1974 AS AMENDED.

\*Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances

**DEFENSE FINANCE AND ACCOUNTING SERVICE**  
[Supporting Finance/Military Pay Office]

**Payment Coupon**

**Payment in Full Other than Payroll Collection.** I am paying my debt in a lump sum by money order or cashier's check. My payment in the amount of \$\_\_\_\_\_ is enclosed. Please submit the payment coupon with [money order](#) or check to the DISBURSING OFFICER, [Supporting Finance/Military Pay Office]

**Debt Information:**

Member's Name: \_\_\_\_\_

SSN: XXX-XX-\_\_\_\_\_

Amount Owed: \$\_\_\_\_\_.\_\_

Estimated Disposable Net Amount \$\_\_\_\_\_

Estimated Deduction Amount 15% of net disposable per pay period \$\_\_\_\_\_

Type of debt/Format Identifier code (for example, DQ or DV) \_\_\_\_\_

Sequence # (from Master Military Pay Account)\_\_\_\_\_

Line of Accounting \_\_\_\_\_

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)



Appropriate [Supporting Finance/Military Pay Office] Letterhead

DATE

SUSPENSE: DATE

[Supporting Finance/Military Pay Office]

Officer Letter

MEMORANDUM FOR: RANK, LAST NAME, FIRST NAME

SUBJECT: Notice of Indebtedness to an Officer

MEMORANDUM FOR [Supporting Finance/Military Pay Office]

SUBJECT: Notice of Charge to an Officer RANK, Last Name (0000)

Payment Obligation. I agree to repay the debt in the manner I have indicated below. Please choose one of the following repayment plans (check one):

I acknowledge the validity of this debt and agree to the collection of the amount due from my pay.

I acknowledge the validity of this debt and request installment payments of the amount over a period of \_\_\_\_\_ months. I have attached a statement detailing the reasons why this debt should be prorated and not collected in one lump sum.

I acknowledge the validity of this debt and would like to pay the debt with a cashier's check or a money order. Please ensure the cashier's check or money order is made out to the Disbursing Officer, [Supporting Finance/Military Pay Office] **Please include this line of accounting on the check:** \_\_\_\_\_

I will come to the [Supporting Finance/Military Pay Office] to discuss this matter on \_\_\_\_\_ (Date must be prior to the suspense date on basic letter).

\_\_\_\_\_ Service Member's Signature \_\_\_\_\_ Date

1. Finance has identified an outstanding debt to the U.S. Government for overpayment of (name of debt) in the amount of \$XXX.XX from YEARMDD- YEARMDD.

2. You have until the close of business of the suspense date indicated above to dispute this debt by submitting a written request for review, along with supporting documentation, to the [Supporting Finance/Military Pay Office], Collections Desk. Upon timely receipt of your request, the debt will be reviewed and a written response will be issued to you within 60 days. If your request for review and supporting documentation is not supplied by the suspense date, immediate collection action will be initiated using the 2/3 rule as set out in the Department of Defense Financial Management Regulation, Volume 16, Chapter 3. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump-sum payments) may be applied to pay off your debt. An administrative fee will only be assessed if no response is received by the suspense date or the debt is paid via installments.

3. Under DoD FMR Volume 7A, Chapter 40, paragraph 400503 and Chapter 52, paragraph 520101, if the finance office is unable to collect your debts due to voluntary deductions for Thrift Savings Plan contributions and/or discretionary allotments, your allotment(s) will be stopped after the suspense date indicated on this Notification of Indebtedness, and the debt collection will commence as indicated in paragraph 2.



4. You may be eligible to apply for waiver or remission/cancellation of your debt. See attached "Collection of Your Debt" for more information. **DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived, remitted, or determined not to be owed to the United States.**

5. You may request an installment payment plan. A request for payment by installment is subject to the [Supporting Finance/Military Pay Office] final approval which will take into account the amount of the debt and your financial ability to pay the debt. A x% annual interest rate will be charged on any unpaid portion of the debt and an administrative fee may be assessed.

NOTE: For any installment payment period greater than 12 months, an additional memo from your Commander is required stating a longer repayment period is needed based on your financial hardship. This memo will be forwarded to the appropriate authority for approval, with the recommendation of the [Supporting Finance/Military Pay Office]. The recommendations MUST be based on a financial hardship and allow for collection of the debt prior to the Service member's date of separation. Any installment period that exceeds 24 months will be reviewed every 12 months, and will require the member to show continued financial hardship, or the debt will be resumed based on the above mentioned 2/3 rule in paragraph 2.

6. Request correspondence to be returned to the [Supporting Finance/Military Pay Office Address]

[Signature of Supporting Finance/Military Pay Office]

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

Appropriate [Supporting Finance/Military Pay Office] Letterhead

DATE

SUSPENSE: DATE



[Supporting Finance/Military Pay Office]

Enlisted Letter

MEMORANDUM FOR COMMANDER, XXX

SUBJECT: Notice of Indebtedness

1. Select one of the following items by initialing on the line preceding your choice and sign and date where appropriate. Return this memorandum back to the [Supporting Finance/Military Pay Office] for processing by suspense date.

- a. I acknowledge the validity of this debt and request lump-sum collection from my next regular pay.
b. I acknowledge the validity of this debt and request prorating of debt for \_\_\_ months. Request for installment payments less than 12 months will be subject to approval by this office. A x% annual interest rate will be charged on any unpaid portion, and an administrative fee may be assessed to the total debt.

NOTE: For any proration greater than 12 months, an additional memo from either the Unit Commander or [Applicable Senior Enlisted Advisor] is required indicating their justification of their recommendation. This memo will then be forwarded to DFAS-Indianapolis for approval with the recommendation of the Defense Military Pay Office. The recommendation MUST be based on a financial hardship and allow for debt collection prior to the member's date of separation. Any installment agreement that exceeds 24 months will be reviewed every 12 months, and will require the member to show continued financial hardship or the debt will be resumed based on the above mentioned 2/3 rule in paragraph 2. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump-sum payments) may be applied to pay off your debt.

- c. I acknowledge the validity of this debt and would like to pay the debt with a cashier's check or a money order. Please ensure the cashier's check or money order is made out to the DISBURSING OFFICER, [Supporting Finance/Military Pay Office]. Please include this line of accounting on the check:
d. I disagree with the debt. I will contact the [Supporting Finance/Military Pay Office] PRIOR to the suspense date to dispute this debt. I request remission or cancellation.

Service Member's Signature Date
Commander's Signature Date

- 2. The point of contact is XXX, Collections Desk @ XXX-XXX-XXXX.
3. Finance has identified outstanding debt to the U.S. Government pertaining to [Rank] Last name, First name (last 4 of SSN)], in the amount of \$XXX.XX for overpayment of (name of debt) from YEARMMD to YEARMMD.
4. The Service member has until the close of business of the suspense date indicated above to dispute this debt and provide supporting documentation to the [Supporting Finance/Military Pay Office], Collections Desk. If supporting documentation is not supplied by the suspense date, immediate collection action will be initiated using the 2/3 rule of the Department of Defense Financial Management Regulation, Volume 16, Chapter 3. An administrative fee will ONLY be assessed on the debt if no response is received by the suspense date or the debt is repaid via installments. You are advised that you are afforded the opportunity to request payment via installments or Waiver or remission/cancellation of indebtedness for erroneous payment of pay and allowances.

[Signature of Supporting Finance/Military Pay Office]

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances  
(Continued)

### COLLECTION OF YOUR DEBT

Please be aware of the following additional information that may concern the collection of your debt:

**Interest and Additional Charges.** If you are unable to pay the debt in full within 30 days from the date of this letter, any unpaid portion of the debt will be considered delinquent. DFAS is authorized by law to add interest, penalties, and administrative costs to your debt if it is not paid within 30 days from the date of this letter. The rate of interest charged is at the Treasury Tax and Loan Rate and may commence on the date your debt becomes delinquent and may continue until the debt is paid in full. Additional penalties may be imposed at the rate of up to 6 percent a year, as well as administrative charges, on any unpaid portion of your debt that is delinquent for more than 90 days, commencing on the date your debt becomes delinquent and continuing until the debt is paid in full.

**Collection Action on Delinquent Debts.** If DFAS is unable to collect your debt, DFAS may enforce repayment of your debt by using other available collection remedies such as referring your debt to a private collection agency, reporting your debt to a credit bureau, garnishing your non-Federal employment wages, or referring your debt to the U.S. Department of Justice for litigation. Debts delinquent for more than 120 days are transferred to the U.S. Department of Treasury for collection. Treasury may offset your Federal income tax refunds or other Federal benefit payments, such as Social Security and Federal employee retirement benefits, in order to collect your debt. You may also be prohibited from being approved for a Federal loan if you do not resolve your outstanding delinquent debt.

**Tax Considerations.** Pursuant to Internal Revenue Service (IRS) Publication 15, income tax withheld by DFAS in a prior calendar year cannot be adjusted. Therefore, if your overpayment occurred in a prior calendar year, you must pay back the gross amount of your debt, including any taxes previously withheld and paid on your behalf to the IRS. You may be entitled to a deduction (or credit in some cases) for the repaid wages on your income tax return for the year of repayment of your debt. Each January, DFAS will issue a tax certificate for amounts repaid toward a prior year debt that can be used for tax filing. If your overpayment and repayment both occur in the same calendar year, DFAS will be able to adjust your tax withholding and you will be responsible for repaying only the net overpaid amount. Upon repayment in the same calendar year, your W-2 will be adjusted to reflect your income and the associated taxes. Finally, please be aware that should your debt repayment ever become delinquent and collected by the offset of your tax refund, your spouse may file IRS Form 8379, Injured Spouse Allocation, with the IRS to claim his or her share of the tax refund.

**Penalties for False or Frivolous Statements.** Please be advised that if you make or provide any knowingly false or frivolous statement, representations or evidence with respect to your debt, you may be liable for penalties under the False Claims Act (31 U.S.C. § 3729-3733) or other applicable statutes, and/or criminal penalties under 18 U.S.C. §§ 286, 287, 1001, and 1002, and other applicable statutes. A Federal employee may also be subject to disciplinary procedures under 5 U.S.C. Chapter 75 or any other applicable statutes or regulations.

**Bankruptcy.** If you file for bankruptcy, you must notify DFAS as soon as possible.

### **Opportunities Available to You**

**Requesting a Review.** A debtor who questions the validity or amount of a debt may request a review and validation of the debt by the DCO. A debtor may also contest the involuntary repayment schedule. The debtor must submit a written request for a review that identifies and explains, with reasonable specificity, the facts and evidence the debtor believes supports his or her position. The request for review must be received not later than 30 days from the mailing date of the debt notification, or by the date indicated in the debt notification. There is no standardized format for a request for review; however, the request should contain debtor identifying information, the reason for requesting a review, supporting documentary evidence, and a dated signature. A debtor waives his or her right to a review if the debtor fails to submit a request in a timely manner. The DCO may accept a late request if the debtor can show that the delay was due to circumstances beyond the debtor's control.

**Requesting Records.** A debtor may make a written request to the DCO for records related to the debt. A request for records must be made prior to the deadline for submitting a request for review. Within 45 days after the date the records are distributed to the debtor, the debtor must submit a written request for review to the DCO or the debtor will waive his or her right to review.

**Review Procedures.** The request for review must be submitted to the DCO from which the debtor received his or her debt notification and must be mailed or faxed to the address in the notification. Upon receipt of the request for review, the DCO will consider the information, and any documentary evidence contained in the debtor's request and will perform a review and validation of the debt. The DCO must issue the written review results to the debtor.

**Written Review Results.** Written results should be provided within 60 calendar days.

**Waiver or Remission.** If appropriate, you may request a waiver of your debt. Under 5 U.S.C. § 5584, the United States may waive its right to collect the debt you owe if collection would be against equity and good conscience and not in the best interest of the United States. The debt must be the result of an erroneous payment of pay or allowances (including travel, transportation, or relocation expenses and allowances). A debt may be waived in whole or in part. Collection of your debt generally will not be suspended during the waiver review process. [DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived, remitted, or determined not to be owed to the United States.](#) See DoD FMR Volume 16, Chapter 4. Please contact your Supporting Finance/Military Pay Office for further information on waiver or remission of your debt.

Table 2-1. Break-Even Analysis

<b>BREAK-EVEN ANALYSIS</b>					
(1)	(2)	(3)	(4)	(5)	(6)
<u>Dollar Range</u>	<u>Number of Cases Processed</u>	<u>Original Dollar Amount</u>	<u>Historical Cost to Collect</u>	<u>Total Dollars Collected</u>	<u>Dollar Difference</u>
0-25					
26-50					
51-75					
76-100					
101-125					
126-575					
576-600					
SUBTOTAL					
OVER 600					
GRAND TOTAL					
<p>Column (1) - Dollar range should be meaningful to the debt collection process. Subtotal can be placed anywhere within dollar range to relate to a particular debt collection need.</p> <p>Column (2) - Total number of cases processed within this particular dollar range.</p> <p>Column (3) - Original dollar amount of debts for this particular range.</p> <p>Column (4) - Historical cost for this particular range or subtotal times number of cases in column (2).</p> <p>Column (5) - Accumulate collections per range or subtotal.</p> <p>Column (6) - Column (5) minus column (4). Break-even point is where the collections (5) are equal to the cost to collect (4).</p> <p>Grand total of collections (column (5)) divided by grand total of original dollar amount (column (3)) = percent collection range for period.</p>					